



FEDERAL REGISTER

VOLUME 27

NUMBER 215

Washington, Saturday, November 3, 1962

Contents

Agricultural Marketing Service

- NOTICES:
Frozen concentrated orange juice;
purchase program DMP 135a.... 10774
- RULES AND REGULATIONS:
Carrots grown in South Texas;
shipments limitation..... 10746

Agricultural Stabilization and Conservation Service

- PROPOSED RULE MAKING:
Peanuts; allotment and market-
ing quotas, 1963 and subsequent
crops..... 10760
- RULES AND REGULATIONS:
Milk in Upper Chesapeake Bay
marketing area; order suspend-
ing certain provisions..... 10747
- National agricultural conserva-
tion, 1963; State funds..... 10743
- Sugar:
Proportionate shares determi-
nation; commitments of sug-
arbeet acreage from national
reserve..... 10745
- Requirements and quotas; proc-
essings which constitute fur-
ther refinement or im-
provement in quality, and
distinction of sugars of spec-
ific qualities as raw sugar or
direct-consumption sugar..... 10744
- Tobacco marketing quotas, 1963-
64 and subsequent marketing
years; lease and transfer of
tobacco acreage allotment.... 10743

Agriculture Department

See Agricultural Marketing Serv-
ice; Agricultural Stabilization
and Conservation Service; Farm
Credit Administration; Com-
modity Credit Corporation;
Commodity Exchange Authority.

Army Department

See Engineer's Corps.

Atomic Energy Commission

- RULES AND REGULATIONS:
DOMINIC Nuclear Test Series,
1962; Johnston Island zone.... 10748

- Statement of organization, dele-
gation, and general informa-
tion; miscellaneous amend-
ments..... 10748

Commodity Credit Corporation

- RULES AND REGULATIONS:
Wheat export program; payment
in kind; terms and conditions;
miscellaneous amendments.... 10741

Commodity Exchange Authority

- PROPOSED RULE MAKING:
Commodity Exchange Act;
amendments..... 10760

Defense Department

See Engineer's Corps.

Emergency Planning Office

- NOTICES:
California; notice of major dis-
aster..... 10778

Engineers Corps

- RULES AND REGULATIONS:
Blackburn Bay, Florida; bridge
regulation..... 10753

Farm Credit Administration

- RULES AND REGULATIONS:
Federal Farm Mortgage Corpora-
tion; revocation..... 10741

Federal Aviation Agency

- PROPOSED RULE MAKING:
Curtiss-Wright C-46 Series air-
craft; airworthiness directive.. 10771
- RULES AND REGULATIONS:
Airworthiness directives:
Douglas DC-8 Series aircraft... 10751
Mareco Model 15-1 safety belts.. 10751
- Security control of air traffic;
Puerto Rico Coastal ADIZ..... 10750

Federal Communications Commission

- NOTICES:
Hearings, etc.:
Cannon Broadcasting Co..... 10774
Desert Broadcasting Co., Inc.,
and Manuel Martinez..... 10774
Edina Corp. and Tedesco, Inc... 10775

Federal Power Commission

- NOTICES:
Hearings, etc.:
Columbia Gulf Transmission
Co..... 10775
Continental Oil Co. et al..... 10775
Humble Oil and Refining Co.
et al..... 10776
Kansas-Nebraska Natural Gas
Co., Inc., and Northern Nat-
ural Gas Co..... 10776

Federal Trade Commission

- RULES AND REGULATIONS:
Morse Sewing Machine & Supply
Corp. et al.; prohibited trade
practices..... 10751

Housing and Home Finance Agency

See Public Housing Administra-
tion.

Interior Department

See Land Management Bureau;
National Park Service.

Internal Revenue Service

- PROPOSED RULE MAKING:
Production of volatile fruit-flavor
concentrates..... 10754
- RULES AND REGULATIONS:
Income tax; taxable years begin-
ning after December 31, 1953;
miscellaneous amendments.... 10733

Interstate Commerce Commission

- NOTICES:
Alabama, Arizona, Minnesota, and
Mississippi; railroads authorized
to transport livestock feed and
hay to drouth area at reduced
rates..... 10779
Fourth section application for
relief..... 10781
Motor carrier transfer proceed-
ings (2 documents)..... 10780, 10781

(Continued on next page)

Labor Department

See also Wage and Hour Division.

PROPOSED RULE MAKING:

Labor standards applicable to federally financed and assisted construction..... 10760

Land Management Bureau**NOTICES:**

Alaska; proposed withdrawal and reservation of lands..... 10774

National Park Service**RULES AND REGULATIONS:**

Sequoia and Kings Canyon National Parks, California; dogs and cats..... 10752

Public Housing Administration**NOTICES:**

Deputy Commissioner et al.; delegations of final authority..... 10777

Securities and Exchange Commission**NOTICES:**

Orders summarily suspending trading:

Black Bear Industries, Inc. 10779

E. L. Bruce Co., Inc. 10779

Precision Microwave Corp. 10779

Prosper Oil and Mining Co. 10779

PROPOSED RULE MAKING:

Suspensions of trading and removals from listing and registration..... 10772

Treasury Department

See Internal Revenue Service.

Wage and Hour Division**NOTICES:**

Certificates authorizing employment of learners at special minimum rates..... 10781

RULES AND REGULATIONS:

Construction, business service, motion picture, and miscellaneous industry in Puerto Rico; wage order 10752

Codification Guide

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published in today's issue. A cumulative list of parts affected, covering the current month to date, appears at the end of each issue beginning with the second issue of the month.

Monthly, quarterly, and annual cumulative guides, published separately from the daily issues, include the section numbers as well as the part numbers affected.

6 CFR91..... 10741
483..... 10741**7 CFR**701..... 10743
724..... 10743
810..... 10744
851..... 10745
970..... 10746
1016..... 10747**PROPOSED RULES:**

729..... 10760

10 CFR1..... 10748
112..... 10748**14 CFR**507 (2 documents)..... 10751
620..... 10750**PROPOSED RULES:**

507..... 10771

16 CFR

13..... 10751

17 CFR**PROPOSED RULES:**1..... 10760
240..... 10772**26 CFR**

1..... 10733

PROPOSED RULES:

198..... 10754

29 CFR

672..... 10752

PROPOSED RULES:1..... 10761
3..... 10764
5..... 10768**33 CFR**

203..... 10753

36 CFR

7..... 10752

Announcing first**5-year Cumulation****UNITED STATES
STATUTES AT LARGE****TABLES OF LAWS AFFECTED
in Volumes 70-74**

Lists all prior laws and other Federal instruments which were amended, repealed, or otherwise affected by the provisions of public laws enacted during the years 1956-1960. Includes index of popular name acts affected in Volumes 70-74.

Price: \$1.50

Compiled by Office of the Federal Register,
National Archives and Records Service,
General Services Administration

Order from Superintendent of Documents,
United States Government Printing Office,
Washington 25, D.C.



Telephone

WOrth 3-3261

prescribed by the Administrative Committee of the Federal Register, approved by the President. Distribution is made only by the Superintendent of Documents, Government Printing Office, Washington 25, D.C.

The FEDERAL REGISTER will be furnished by mail to subscribers, free of postage, for \$1.50 per month or \$15.00 per year, payable in advance. The charge for individual copies (minimum 15 cents) varies in proportion to the size of the issue. Remit check or money order, made payable to the Superintendent of Documents, directly to the Government Printing Office, Washington 25, D.C.

The regulatory material appearing herein is keyed to the CODE OF FEDERAL REGULATIONS, which is published, under 50 titles, pursuant to section 11 of the Federal Register Act, as amended August 5, 1953. The CODE OF FEDERAL REGULATIONS is sold by the Superintendent of Documents. Prices of books and pocket supplements vary.

There are no restrictions on the republication of material appearing in the FEDERAL REGISTER, or the CODE OF FEDERAL REGULATIONS.

Published daily, except Sundays, Mondays, and days following official Federal holidays, by the Office of the Federal Register, National Archives and Records Service, General Services Administration, pursuant to the authority contained in the Federal Register Act, approved July 26, 1935 (49 Stat. 500, as amended; 44 U.S.C., ch. 8B), under regulations approved by the President. Distribution is made only by the Superintendent of Documents, Government Printing Office, Washington 25, D.C.

Rules and Regulations

Title 26—INTERNAL REVENUE

Chapter I—Internal Revenue Service, Department of the Treasury

SUBCHAPTER A—INCOME TAX

[T.D. 6616]

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Miscellaneous Amendments

On December 28, 1960, notice of proposed rule making with respect to regulations under sections 382 and 394 of the Internal Revenue Code of 1954 (relating, respectively, to special limitations on net operating loss carryovers and effective date of part V, subchapter C, chapter 1) was published in the FEDERAL REGISTER (25 F.R. 13775). After consideration of all such relevant matter as was presented by interested persons regarding the rules proposed, the regulations as so proposed are hereby adopted, subject to the changes set forth below:

PARAGRAPH 1. Section 1.382(a)-1, as set forth in the notice of proposed rule making, is changed by revising paragraphs (d), (e) (2), (h) (5) and (8), and examples (2) and (3) of paragraph (h) (9).

PAR. 2. Paragraph (d) (3) of § 1.382(b)-1, as set forth in the notice of proposed rule making, is revised.

(Sec. 7805, I.R.C. 1954; 68A Stat. 917; 26 U.S.C. 7805)

[SEAL] MORTIMER M. CAPLIN,
Commissioner of Internal Revenue.

Approved: October 30, 1962.

STANLEY S. SURREY,
Assistant Secretary of the
Treasury.

§ 1.382(a) Statutory provisions; special limitations on net operating loss carryovers; purchase of a corporation and change in its trade or business.

SEC. 382. Special limitations on net operating loss carryovers—(a) Purchase of a corporation and change in its trade or business—(1) In general. If, at the end of a taxable year of a corporation—

(A) Any one or more of those persons described in paragraph (2) own a percentage of the total fair market value of the outstanding stock of such corporation which is at least 50 percentage points more than such person or persons owned at—

(i) The beginning of such taxable year, or
(ii) The beginning of the prior taxable year,

(B) The increase in percentage points at the end of such taxable year is attributable to—

(i) A purchase by such person or persons of such stock, the stock of another corporation owning stock in such corporation, or an interest in a partnership or trust owning stock in such corporation, or

(ii) A decrease in the amount of such stock outstanding or the amount of stock outstanding of another corporation owning stock in such corporation, except a decrease

resulting from a redemption to pay death taxes to which section 303 applies, and

(C) Such corporation has not continued to carry on a trade or business substantially the same as that conducted before any change in the percentage ownership of the fair market value of such stock,

the net operating loss carryovers, if any, from prior taxable years of such corporation to such taxable year and subsequent taxable years shall not be included in the net operating loss deduction for such taxable year and subsequent taxable years.

(2) Description of person or persons. The person or persons referred to in paragraph (1) shall be the 10 persons (or such lesser number as there are persons owning the outstanding stock at the end of such taxable year) who own the greatest percentage of the fair market value of such stock at the end of such taxable year; except that, if any other person owns the same percentage of such stock at such time as is owned by one of the 10 persons, such person shall also be included. If any of the persons are so related that such stock owned by one is attributed to the other under the rules specified in paragraph (3), such persons shall be considered as only one person solely for the purpose of selecting the 10 persons (more or less) who own the greatest percentage of the fair market value of such outstanding stock.

(3) Attribution of ownership. Section 318 (relating to constructive ownership of stock) shall apply in determining the ownership of stock, except that section 318(a) (2) (C) shall be applied without regard to the 50 percent limitation contained therein.

(4) Definition of purchase. For purposes of this subsection, the term "purchase" means the acquisition of stock, the basis of which is determined solely by reference to its cost to the holder thereof, in a transaction from a person or persons other than the person or persons the ownership of whose stock would be attributed to the holder by application of paragraph (3).

§ 1.382(a)-1 Purchase of a corporation and change in its trade or business.

(a) In general. (1) Section 382(a) provides for the complete elimination of the net operating loss carryovers of a corporation (hereinafter called a "loss corporation") if certain circumstances exist. In general, section 382(a) applies only if, at the end of a loss corporation's taxable year, there has been a change (occurring in specified ways) since the beginning of such year, or since the beginning of the prior taxable year, of at least 50 percent in the ownership of the corporation's outstanding stock (hereinafter called a "change of ownership"), and only if the corporation has not continued to carry on substantially the same trade or business as that conducted before such change. If section 382(a) is applicable at the end of a taxable year, then the entire net operating loss carryovers from prior taxable years of such corporation are excluded in computing the net operating loss deduction for such taxable year and for subsequent taxable years.

(2) For purposes of this section, (i) section 318(a) shall apply in determining ownership of stock, except that sec-

tion 318(a) (2) (C) shall be applied without regard to the 50-percent limitation contained therein, and (ii) stock acquired by the exercise of an option shall be considered as having been acquired on the date the option was acquired. Thus, if A acquires on December 15, 1959, an option to purchase 50 percent of the outstanding stock of X Corporation and if A acquires the stock by exercising the option on January 15, 1961, A will be considered as having purchased the stock on December 15, 1959.

(3) For the definition of the term "stock" as used in this section, see § 1.382(c)-1.

(b) Circumstances under which section 382(a) is applicable. Section 382(a) applies if, at the end of a taxable year of a loss corporation, all of the following circumstances exist:

(1) Any one or more of those persons described in paragraph (c) of this section own, actually and constructively, a percentage of the total fair market value of the outstanding stock of such corporation which is at least 50 percentage points more than such person or persons owned at the beginning of such taxable year or at the beginning of the prior taxable year;

(2) The increase in percentage points referred to in subparagraph (1) of this paragraph is attributable to (i) a purchase or purchases (as defined in section 382(a) (4) and paragraph (e) of this section) by the person or persons specified in subparagraph (1) of this paragraph of such stock or the stock of another corporation owning stock in such loss corporation, (ii) the purchase or purchases by such person or persons of an interest in a partnership or trust owning stock in such loss corporation, (iii) a decrease in the amount of outstanding stock of such loss corporation or in the amount of outstanding stock of another corporation owning stock in such loss corporation, except a decrease resulting from a redemption to pay death taxes to which section 303 applies, or (iv) a combination of the transactions described in subdivisions (i), (ii), and (iii) of this subparagraph; and

(3) The loss corporation has not continued to carry on a trade or business substantially the same as that conducted before any increase in percentage points described in subparagraph (2) of this paragraph.

(c) Description of person or persons.

(1) The persons specified in paragraph (b) (1) of this section shall be the 10 persons who own, actually and constructively, the greatest percentage of the fair market value of the outstanding stock of a loss corporation at the end of a taxable year (or such lesser number as there are persons owning the outstanding stock at the end of such taxable year), except that if any two or more persons own the same percentage of such stock and it is necessary to include one

such person in order to select the 10 persons, then all of such persons shall be included. Any such persons so selected who are so related that stock owned by one is attributed to another under the constructive ownership rule specified in paragraph (a) (2) of this section shall be considered as only one person solely for the purpose of selecting such 10 persons. Although considered as one person for purposes of selecting such 10 persons, such related persons are considered as separate persons for all other purposes of section 382(a).

(2) In selecting the 10 persons (more or less) described in subparagraph (1) of this paragraph, the following procedure shall be used:

(i) First, determine those persons who own, actually and constructively, stock of the loss corporation and determine the fair market value of the stock owned, actually and constructively, by such persons.

(ii) Second, select from such persons the number of persons required by the first sentence of subparagraph (1) of this paragraph.

(iii) Third, if any of the persons so selected are so related that stock of one is attributed to another under the rule specified in paragraph (a) (2) of this section, such persons shall be considered as one person.

(iv) Fourth, if, as the result of considering two or more persons as one person, the number of persons previously selected drops below ten, additional persons shall be selected in the manner prescribed in subdivision (ii) of this subparagraph.

(v) Finally, if any such additional persons are related under the rule specified in paragraph (a) (2) of this section to persons previously selected, or to one another, then the principles of subdivisions (iii) and (iv) of this subparagraph shall again be applied.

(3) The application of this paragraph may be illustrated by the following example:

Example. (i) Assume that the outstanding stock of a loss corporation (based on fair market value) is owned, actually and constructively, at the end of a taxable year by the following individuals and partnership:

Person	Percentage of stock actually owned	Percentage of stock owned actually and constructively
A	15	15
B (A's wife)	0	15
C (A's son)	0	15
D (A's daughter)	0	15
GH (a partnership)	0	20
E	16	20
F	15	15
G (a 50-percent partner in GH)	10	15
H (a 50-percent partner in GH)	10	15
I	5	5
J	5	5
K	5	5
L (E's grandson)	4	4
M	4	4
N	3	3
O	2	2
P	2	2
Q	2	2
R	2	2

(ii) The persons selected under subparagraph (2)(ii) of this paragraph are the following 12 persons: A, B, C, D, partnership GH, E, F, G, H, I, J, and K (I, J, and K must all be included because each owns the same percentage of stock). However, A, B, C, and D are considered as one person for purposes of this paragraph because they are related under the rule specified in paragraph (a) (2) of this section, and G, H, and partnership GH are considered as one person for the same reason. Therefore, it is necessary to select three additional persons, L, M, and N, in order to reach the required number of ten. However, since L is related to one of the persons previously selected, he cannot be considered a separate person. It therefore becomes necessary to select an additional person and since O, P, Q, and R each owns the same percentage of stock, they all must be selected. Accordingly, the 10 persons (more or less) who own the greatest percentage of the fair market value of the outstanding stock are individuals A through R and partnership GH.

(d) *Change of ownership.* (1) The determination of whether a change of ownership has occurred under section 382(a) is made as of the close of a taxable year of a loss corporation. A "change of ownership" has occurred only if the stock ownership of the 10 persons (more or less) selected under paragraph (c) of this section has increased at least 50 percentage points during a prescribed period and such increase is attributable to a transaction or transactions described in section 382 (a) (1) (B) and in paragraphs (e), (f), and (g) of this section. The aggregate increase of at least 50 percentage points may occur at any one time during the taxable year or during the prior taxable year, or may take place in several transactions occurring during such 2-year period. An increase of 50 percentage points is not the same thing as an increase of 50 percent. Thus, a stockholder who owns 4 percent of the fair market value of the stock of a corporation and who increases his ownership to 6 percent has had a 50-percent increase in ownership but an increase in percentage points of only 2.

(2) (i) It is unnecessary to determine whether a "change of ownership" has occurred unless, as of the end of any taxable year (hereinafter called a "current taxable year"), the loss corporation has changed its trade or business after the date of the first increase in percentage points during such taxable year, or during the prior taxable year, which would be taken into account under subparagraph (3) of this paragraph in determining whether a "change of ownership" has occurred.

(ii) If, as of the end of the current taxable year, the loss corporation has changed its trade or business after the date of the first increase in percentage points during such current year, then in determining whether a "change of ownership" has occurred it is first necessary to compare ownership of the outstanding stock at the end of the current taxable year with such ownership at the beginning of such current taxable year. If a "change of ownership" has not occurred as a result of such comparison, then it is necessary to compare ownership of the outstanding stock at the end of the current taxable year with

such ownership at the beginning of the prior taxable year.

(iii) If, as of the end of the current taxable year, the loss corporation has not changed its trade or business after the date of the first increase in percentage points during such current year, but the corporation has changed its trade or business after the date of the first increase in percentage points during the prior taxable year, then in determining whether a "change of ownership" has occurred it is necessary to compare ownership of the outstanding stock at the end of the current taxable year with such ownership at the beginning of the prior taxable year.

(iv) For purposes of subdivisions (ii) and (iii) of this subparagraph, an increase in percentage points means only an increase in percentage ownership which would be taken into account under subparagraph (3) of this paragraph in determining whether a "change of ownership" has occurred.

(v) A loss corporation has changed its trade or business during a period between one date and another date only if, as of the later date, the corporation has not continued to carry on a trade or business substantially the same as that conducted immediately before the earlier date. See paragraph (h) of this section for rules relating to change in trade or business.

(3) In determining whether a "change of ownership" has occurred, the following procedure shall be used:

(i) First, as of the close of a taxable year, the percentage of the total fair market value of stock owned, actually and constructively, by each of the 10 persons (more or less) selected under paragraph (c) of this section shall be computed. For this purpose, each person included in selecting such 10 persons shall be treated as a separate person even though any such persons are considered as only one person under such paragraph (c) in selecting the 10 persons who own the greatest percentage of the fair market value of the outstanding stock.

(ii) Second, the percentage of the total fair market value of stock owned, actually and constructively, by each of such persons as of the beginning of the current taxable year or the prior taxable year, whichever is applicable, shall be computed.

(iii) Third, after computing the percentage of the total fair market value of stock owned by each of the persons as of the close of the current taxable year and as of the beginning of the applicable year, a comparison shall be made between the percentages owned by each such person as of each such date.

(iv) Fourth, with respect to each person who sustained an increase in percentage ownership, the portion of such increase which is attributable to a transaction or transactions described in paragraphs (e), (f), and (g) of this section shall be determined.

(v) Finally, the increases in percentage ownership attributable to such transaction or transactions shall be totaled and the resulting figure shall be

used in determining whether a "change of ownership" has occurred.

(4) This paragraph may be illustrated by the following examples:

Example (1). Assume that a loss corporation has changed its trade or business during the current taxable year ending on December 31, 1960. Assume further that the following table shows the percentage of the fair market value of the outstanding stock owned by each stockholder as of December 31, 1960, and the percentages owned by such stockholders as of January 1, 1960, and January 1, 1959. The percentage of stock actually owned is followed in parentheses by the percentage owned actually and constructively under section 318(a). It is assumed that all increases in actual ownership are attributable to a purchase or purchases of stock described in paragraph (e) of this section.

Stockholder	Dec. 31, 1960	Jan. 1, 1960	Jan. 1, 1959
	Percent	Percent	Percent
A.....	10(23)	15(15)	15(15)
B (A's wife).....	10(23)	0(15)	0(15)
C.....	10(25)	10(25)	0(0)
D (C's wife).....	5(25)	5(25)	0(10)
E (son of C and D).....	5(20)	5(20)	0(0)
F (daughter of C and D).....	5(20)	5(20)	0(0)
G.....	10(10)	10(10)	0(0)
H.....	5(5)	0(0)	0(0)
I.....	5(5)	0(0)	0(0)
J.....	5(5)	0(0)	0(0)
K.....	5(5)	0(0)	0(0)
L.....	5(5)	5(5)	5(5)
M.....	4(4)	0(0)	0(0)
N.....	4(4)	0(0)	0(0)
O.....	3(3)	3(3)	3(3)
P.....	3(3)	3(3)	3(3)
Q.....	3(3)	3(3)	3(3)
R (grandson of A and B).....	3(3)	0(0)	0(0)
S (D's father).....	0(15)	0(15)	10(10)

(i) The 10 persons (more or less) who own the greatest percentage of the fair market value of the outstanding stock on December 31, 1960 (as selected under paragraph (c) of this section), are A through N and S. Each of such persons is treated as a separate person in computing increases in percentage ownership.

(ii) A and B each owns, actually and constructively, 23 percent of the outstanding stock on December 31, 1960, 15 percent on January 1, 1960, and 15 percent on January 1, 1959. Therefore, as of December 31, 1960, A and B each has sustained an increase of 8 percentage points since January 1, 1960, and a similar increase since January 1, 1959. A's increase is not attributable to a purchase by him. B's increase, however, is attributable to a purchase by her of 10 percent of the outstanding stock. Therefore, B's increase of 8 percentage points is taken into account in determining whether a "change of ownership" has occurred.

(iii) C owns, actually and constructively, 25 percent of the outstanding stock on December 31, 1960, 25 percent on January 1, 1960, and none on January 1, 1959. Therefore, as of December 31, 1960, C has sustained no increase since January 1, 1960, but he has sustained an increase of 25 percentage points since January 1, 1959. Of this increase 10 percentage points are attributable to a purchase by C.

(iv) D owns, actually and constructively, 25 percent of the outstanding stock on December 31, 1960, 25 percent on January 1, 1960, and 10 percent on January 1, 1959. Therefore, as of December 31, 1960, D has sustained no increase since January 1, 1960, but she has sustained an increase of 15 percentage points since January 1, 1959. Of this increase 5 percentage points are attributable to a purchase by D.

(v) E and F each owns, actually and constructively, 20 percent of the outstanding stock on December 31, 1960, 20 percent on January 1, 1960, and none on January 1,

1959. Therefore, as of December 31, 1960, E and F each has sustained an increase of 20 percentage points since January 1, 1959, of which 5 percentage points in each case are attributable to a purchase.

(vi) G has sustained an increase of 10 percentage points since January 1, 1959, all of which are attributable to a purchase by G.

(vii) H, I, J, and K each has sustained an increase of 5 percentage points since January 1, 1960, and a similar increase since January 1, 1959, all of which are attributable to purchases.

(viii) L has sustained no increase in percentage points.

(ix) M and N each has sustained an increase of 4 percentage points since January 1, 1960, and a similar increase since January 1, 1959, all of which are attributable to purchases.

(x) S has sustained an increase of 5 percentage points since January 1, 1959, but the increase is not attributable to a purchase by S.

(xi) The aggregate increase in percentage ownership (attributable to purchases) since January 1, 1960, is 36 percentage points (8 points from B, 5 each from H, I, J, and K, and 4 each from M and N).

(xii) Since an aggregate increase (attributable to transactions described in paragraph (e) in stock ownership of at least 50 percentage points has not occurred since January 1, 1960, the beginning of the taxable year, it is necessary to determine whether such an increase has occurred since January 1, 1959, the beginning of the prior taxable year. The aggregate increase in percentage ownership (attributable to purchases) since January 1, 1959, is 71 percentage points (8 from B, 10 each from C and G, 5 each from D, E, F, H, I, J, and K, and 4 each from M and N). Therefore, section 382(a) applies as of December 31, 1960, to eliminate any net operating loss carryovers from 1959 and earlier taxable years.

Example (2). Assume that a loss corporation has changed its trade or business during the current taxable year ending on December 31, 1960. Assume further that the following table shows the percentage of the fair market value of the outstanding stock owned by each stockholder as of December 31, 1960, and the percentages owned by such stockholders as of January 1, 1960. The percentage of stock actually owned is followed in parentheses by the percentage owned actually and constructively under section 318(a). It is assumed that all increases in actual ownership are attributable to a purchase or purchases of stock described in paragraph (e) of this section.

Stockholder	Dec. 31, 1960	Jan. 1, 1960
	Percent	Percent
Partnership AB.....	20(100)	0(40)
A (a 50-percent partner in AB).....	40(70)	40(40)
B (a 50-percent partner in AB).....	30(70)	0(20)
C (B's wife).....	10(70)	0(20)

(i) Since there are less than 10 stockholders as of December 31, 1960, all of such stockholders are included among the persons who own the greatest percentage of stock.

(ii) Since partnership AB owns, actually and constructively, 100 percent of the outstanding stock on December 31, 1960, and 40 percent on January 1, 1960, AB has sustained an increase of 60 percentage points. Of this increase 20 percentage points are attributable to a purchase by AB.

(iii) A has sustained an increase of 30 percentage points, but none of such increase is attributable to a purchase by A.

(iv) B has sustained an increase of 50 percentage points, of which 30 are attributable to a purchase by B.

(v) C has sustained an increase of 50 percentage points, of which 10 are attributable to a purchase by C.

(vi) Since there has been an aggregate increase (attributable to transactions described in paragraph (e) of this section) of 60 percentage points since January 1, 1960, section 382(a) applies as of December 31, 1960, to eliminate any net operating loss carryovers from 1959 and earlier taxable years to 1960 and subsequent taxable years.

Example (3). (i) Assume that on June 15, 1959, A, an individual, purchases (within the meaning of section 382(a) (4) and paragraph (e) of this section) 100 percent of the outstanding stock of X Corporation, a loss corporation which makes its return on the basis of the calendar year. On June 30, 1959, A transfers such stock to Y Corporation, the entire outstanding stock of which is owned by A. During September 1959, the business of X Corporation is changed.

(ii) Since, as of December 31, 1959, A is considered under section 318(a) as owning 100 percent of the outstanding stock of X Corporation and he owned none of such stock on January 1, 1959, and since A's increase in percentage points is attributable to a purchase of such stock by him, section 382(a) applies as of December 31, 1959, to eliminate any net operating loss carryovers from 1958 and earlier taxable years to 1959 and subsequent taxable years.

(e) *Meaning of "purchase".* (1) In determining whether a "change of ownership" has occurred, an increase in stock ownership which is attributable to an acquisition of stock by the person sustaining the increase (whether the stock acquired is stock of the loss corporation or of a corporation owning stock in the loss corporation) shall be taken into account only if such increase is attributable to a purchase (or purchases) by such person, as defined in section 382(a) (4) and this paragraph. There is a "purchase" of stock only if—

(i) The basis of such stock is determined solely by reference to its cost to the acquirer thereof, and

(ii) Immediately before its acquisition the ownership of such stock would not be attributed to the acquirer by application of the constructive ownership rule of paragraph (a) (2) of this section.

For purposes of subdivision (i) of this subparagraph, if the basis of the stock is determined by reference to its basis in the hands of the transferor thereof or of another person, or by reference to the basis of property (other than cash or its equivalent) exchanged for such stock, then the basis of such stock is not determined solely by reference to its cost to the acquirer. Thus, an acquisition of stock by gift or bequest is not a purchase. However, if stock is received in a taxable exchange, its basis is considered to be determined solely by reference to its cost to the acquirer. Thus, if A owns a house which he exchanges for stock in a loss corporation, the basis of the stock is determined solely by reference to its cost to A. For purposes of subdivision (ii) of this subparagraph, if, immediately before any acquisition of stock, the acquirer would be considered under the constructive ownership rule of paragraph (a) (2) of this section as owning less than 100 percent of the stock owned by the transferor, then the acquirer shall be considered as owning, immediately before such acquisition, only that proportion of the stock so acquired as is equal to the proportion of the total stock owned by the transferor which the

acquirer would be so considered as owning at such time. Thus, if A acquires stock from B, his wife, A has not made a "purchase" because all the stock so acquired would be considered as owned by A immediately before the acquisition. However, if C and D (who are otherwise unrelated) are equal partners in a partnership and if C acquires 50 shares of stock from D, only 25 of such shares will be considered as owned by C immediately before the acquisition.

(2) If a person acquires stock (or an interest in a partnership, trust, or estate) with a view to invoking the constructive ownership rule of paragraph (a)(2) of this section so that a later acquisition of stock by, or from, such person will not qualify as a "purchase" under section 382(a)(4), the earlier acquisition will be disregarded solely for the purpose of determining whether the later acquisition is a "purchase". Moreover, in determining whether an acquisition of stock is a "purchase" under section 382(a)(4), negligible holdings of stock or of an interest in a partnership, trust, or estate will be disregarded. This subparagraph may be illustrated by the following example:

Example. A owns all or part of the outstanding stock of X Corporation, a loss corporation. A desires to sell his stock to Y Corporation and Y Corporation desires to purchase such stock. However, Y Corporation wishes to avoid the provisions of section 382(a). Therefore, A buys stock of Y Corporation and thereafter Y Corporation acquires for cash all or part of A's stock in X Corporation. Since the purpose of A's acquisition of stock in Y Corporation is avoidance of the provisions of section 382(a), such acquisition is ignored and Y Corporation's acquisition from A of stock in X Corporation is considered a "purchase" under section 382(a)(4).

(f) *Increase in percentage points attributable to an indirect purchase of stock.* (1) An increase in percentage points may be attributable to a purchase of stock of a corporation which owns stock of the loss corporation. For example, if X Corporation owns 100 shares of stock of Y Corporation and if A purchases 20 percent in value of the outstanding stock of X Corporation, this will be considered a purchase by A of 20 shares of stock of Y Corporation.

(2) An increase in percentage points may also be attributable to a purchase of an interest in a partnership or trust which owns stock of the loss corporation. For example, if a partnership owns 100 shares of the stock of Y Corporation, a purchase by A of a 20-percent interest in the partnership will be considered a purchase by A of 20 shares of the stock of Y Corporation. Similarly, if a trust owns 100 shares of stock of a loss corporation, and if A purchases an interest in the trust which on an actuarial basis is worth 20 percent, this will be considered a purchase by A of 20 shares of stock of the loss corporation.

(g) *Increase in percentage points attributable to a decrease in outstanding stock.* (1) An increase in percentage points may be attributable to a decrease in the amount of outstanding stock of a loss corporation. For example, if A and B each owns 50 percent in value of the

outstanding stock of X Corporation, a redemption by X Corporation of all of B's stock will increase A's ownership of stock by 50 percentage points.

(2) An increase in percentage points may also be attributable to a decrease in the outstanding stock of a corporation owning, directly or indirectly, stock in the loss corporation. For example, if X Corporation owns 100 percent of the outstanding stock of Y Corporation, a loss corporation, and if A and B each owns 50 percent of the value of the outstanding stock of X Corporation, a redemption by X Corporation of all of B's stock will increase A's indirect ownership of the outstanding stock of Y Corporation by 50 percentage points.

(3) If a decrease in the amount of outstanding stock of a corporation (whether a loss corporation or a corporation owning, directly or indirectly, stock in a loss corporation) results from a redemption to pay death taxes to which section 303 applies, such decrease shall not be taken into account in determining whether there has occurred an increase of at least 50 percentage points under paragraph (d) of this section. For purposes of the preceding sentence, a decrease in outstanding stock results from a redemption to which section 303 applies only to the extent that the amount distributed in redemption does not exceed the sum of the items described in paragraphs (1) and (2) of section 303(a). Thus, if the amount of \$100,000 is distributed in redemption of 100 shares and if the sum of the items described in paragraphs (1) and (2) of section 303(a) is \$60,000, a decrease in outstanding stock of only 60 shares will be considered to result from a redemption to which section 303 applies.

(h) *Change in trade or business.* (1) The provisions of section 382(a) are applicable only if the loss corporation has not continued to carry on a trade or business substantially the same as that conducted before any increase in stock ownership which is taken into account in determining under paragraph (d) of this section whether a change of ownership has occurred. The change in trade or business may occur at any time on or after the date of the earliest such increase during the period beginning on the first day of the loss corporation's prior taxable year. For example, assume that on December 31, 1958 (the end of the corporation's taxable year), the following shareholders own a percentage of the fair market value of the outstanding stock which is greater than each owned at the beginning of the corporation's prior taxable year (January 1, 1957) and that all increases are attributable to purchases within the meaning of paragraph (e) of this section. The increase in percentage points and the date of purchase is shown for each such shareholder:

Shareholder	Increase	Date of purchase
	Percent	
A.....	20	Sept. 15, 1958
B.....	20	June 15, 1958
C.....	10	Mar. 15, 1958
D.....	10	June 15, 1957

Since there have been increases in stock ownership which aggregate at least 50 percentage points, section 382(a) is applicable if the corporation has not continued to carry on a trade or business substantially the same as that conducted immediately before June 15, 1957, the date on which the first purchase occurred during the 2-year period.

(2) Section 382(a) may apply as of the close of a taxable year even though neither a change of ownership nor a change in trade or business has occurred during such year. For example, if during 1958 there is a purchase of at least 50 percent of the fair market value of a corporation's outstanding stock followed by a change in the corporation's trade or business, section 382(a) will apply as of December 31, 1958, to eliminate any net operating loss carryovers from 1957 and prior taxable years, and, even though no changes in stock ownership occur during 1959, section 382(a) will also apply as of December 31, 1959, to eliminate any net operating loss carryover from 1958 to 1959 and subsequent taxable years.

(3) A change in the trade or business of a corporation made in contemplation of a change in stock ownership will be treated as if such change in trade or business had occurred after such change in stock ownership. For example, if a loss corporation changes its business as part of a plan initiated by, or on behalf of, prospective buyers of the loss corporation's stock who wish to avoid the provisions of section 382(a), a subsequent sale of stock to such buyers will cause the change in business to be treated as if it had occurred after the sale.

(4) For purposes of this paragraph, the holding, purchase, or sale for investment purposes of stock, securities, or similar property shall not be considered a trade or business unless such activities historically have constituted the primary activities of the corporation.

(5) In determining whether a corporation has not continued to carry on a trade or business substantially the same as that conducted before any increase in the ownership of its stock, all the facts and circumstances of the particular case shall be taken into account. Among the relevant factors to be taken into account are changes in the corporation's employees, plant, equipment, product, location, customers, and other items which are significant in determining whether there is, or is not, a continuity of the same business enterprise. These factors shall be evaluated in the light of the general objective of section 382(a) to disallow net operating loss carryovers where there is a purchase of the stock of a corporation and its loss carryovers are used to offset gains of a business unrelated to that which produced the losses. However, the prohibited utilization of net operating loss carryovers to offset gains of a business unrelated to that which produced the losses is not dependent upon considerations of purpose, motive, or intent, but rather is established by the objective facts of the particular case. The principles set forth in this subparagraph shall be applied in accordance with the rules set forth in

the following subparagraphs of this paragraph.

(6) A corporation has not continued to carry on a trade or business substantially the same as that conducted before any increase in the ownership of its stock if the corporation is not carrying on an active trade or business at the time of such increase in ownership. Thus, if the corporation is inactive at the time of such an increase and subsequently is reactivated in the same line of business as that originally conducted, the corporation has not continued to carry on a trade or business substantially the same as that conducted before such increase in stock ownership. This subparagraph may be illustrated by the following examples:

Example (1). X Corporation is engaged in the business of manufacturing and selling machinery. On January 1, 1958, the corporation suspends its manufacturing activities and begins to reduce its inventory of finished products because of general adverse business conditions and lack of profits. During the period between January 1 and September 1, 1958, the business of the corporation remains dormant. On September 1, 1958, A, an individual, purchases at least 50 percent in value of X Corporation's outstanding stock. On October 1, 1958, the corporation begins to manufacture the same type of machinery it manufactured before January 1, 1958. The reactivation of the corporation in the same line of business as that conducted before January 1, 1958, does not constitute the carrying on of a trade or business substantially the same as that conducted before the increase in stock ownership.

Example (2). Y Corporation is engaged in the business of manufacturing machinery. On January 1, 1958, the corporation suspends its manufacturing activities because of a fire which disrupts the operation of its plant. During the period between January 1 and June 1, 1958, substantial efforts are made to reactivate the business of the corporation by reconstructing the damaged plant. On June 1, 1958, A, an individual, purchases at least 50 percent in value of Y Corporation's outstanding stock. On July 1, 1958, the corporation resumes its normal manufacturing activities. The fact that the corporation's normal activities are temporarily suspended at the time of the increase in ownership does not of itself constitute a failure to carry on a trade or business substantially the same as that conducted before the increase in stock ownership.

(7) A corporation has not continued to carry on a trade or business substantially the same as that conducted before an increase in the ownership of its stock if the corporation discontinues more than a minor portion of its business carried on before such increase. In determining whether the discontinued activities are more than "minor" for purposes of the preceding sentence, consideration shall be given to whether the discontinuance of the activities has the effect of utilizing loss carryovers to offset gains of a business unrelated to that which produced the losses. This subparagraph may be illustrated by the following examples:

Example (1). X Corporation, a calendar-year taxpayer, is engaged in three separate businesses, A, B, and C. Approximately one-half of X Corporation's total business activities (measured in terms of capital invested, gross income, size of payroll, and similar factors) relates to business A, 30 percent to business B, and the remaining 20 percent to business C. On December 31,

1957, X Corporation has substantial net operating loss carryovers all of which are attributable to the operation of business C. On June 1, 1958, Y Corporation purchases at least 50 percent in value of X Corporation's outstanding stock and during 1959 X Corporation discontinues business C. As of December 31, 1959, X Corporation has not continued to carry on substantially the same trade or business as that conducted prior to the increase in ownership.

Example (2). Assume the same facts as in example (1), except that all of X Corporation's net operating loss carryovers are attributable to business A and that the capital released by the discontinuance of business C is used to revitalize business A. Since the discontinuance of business C does not result in the utilization of net operating losses attributable to one business to offset gains of a business unrelated to that which produced the losses, the discontinuance of such business does not of itself constitute the failure to carry on substantially the same trade or business as that conducted prior to the increase in ownership.

(8) If, after an increase in ownership, the corporation continues to carry on its prior business activities substantially undiminished, the addition by the corporation of a new trade or business does not constitute a failure to carry on substantially the same trade or business. This subparagraph may be illustrated by the following example:

Example. X Corporation, a calendar-year taxpayer, is engaged in the manufacture and sale of electrical appliances and has sustained substantial net operating losses. On June 30, 1958, Y Corporation purchases 100 percent of X Corporation's outstanding stock. During 1959, X Corporation continues substantially undiminished its activities in the manufacture and sale of electrical appliances and also diversifies its activities by acquiring a cement manufacturing plant. The addition of the cement manufacturing business by X Corporation does not of itself constitute a failure to carry on substantially the same trade or business even though net operating loss carryovers attributable to the electrical appliance business are used to offset profits of the cement manufacturing business. See, however, section 269 and the regulations thereunder.

(9) A corporation has not continued to carry on a trade or business substantially the same as that conducted before any increase in the ownership of its stock if the corporation changes the location of a major portion of its activities and as a result of such change in location the business of the corporation is substantially altered. This subparagraph may be illustrated by the following examples:

Example (1). X Corporation, a calendar-year taxpayer, is engaged in the business of manufacturing in State A and has sustained substantial net operating losses. On June 30, 1958, Y Corporation purchases all of X Corporation's outstanding stock. During 1959, X Corporation transfers its operations to State B which is several hundred miles distant from State A. In order to effect the change in location, X Corporation disposes of its plant and a large portion of its machinery located in State A. The distance between State A and State B makes it necessary for the majority of the employees of X Corporation to terminate their employment with X Corporation. During 1959, X Corporation resumes its manufacturing activities in State B and continues to make the same product and to serve substantially the same group of customers. However, by reason of the changes in location, employees, plant, and equipment, X Corpora-

tion, on December 31, 1959, is not carrying on substantially the same trade or business as that conducted prior to the increase in ownership.

Example (2). Y Corporation, a calendar-year taxpayer, is engaged in the operation of a department store in city A. On June 30, 1958, Z Corporation purchases all of the outstanding stock of Y Corporation. During 1959, Y Corporation transfers its operations to town B, a suburb of city A. By reason of the change in location, Y Corporation disposes of its interest in the building formerly occupied by it in city A and also substitutes new equipment for a major portion of the equipment formerly utilized by it in city A. After the change in location, Y Corporation continues to sell substantially the same products to substantially the same customers or to customers drawn from substantially the same area and retains substantially all of the employees formerly employed in city A. Under such circumstances, the change of location does not result in a failure to carry on substantially the same trade or business as that conducted before the increase in ownership.

Example (3). Z Corporation, a calendar-year taxpayer, operates a retail liquor store in town M, utilizing the services of 10 employees. On June 30, 1958, individual A purchases all of the stock of Z Corporation. During 1959, Z Corporation transfers its operations to town O, a distance of 5 miles from its former location. By reason of the change in location, Z Corporation disposes of its interest in the premises formerly occupied by it and also disposes of the license and franchise issued by town M. During 1959, Z Corporation transfers its inventory of liquor to its new location and resumes its retail liquor activities under a license and franchise issued by town O. Z Corporation continues to employ 5 of the 10 employees formerly employed in town M, but the corporation does not serve substantially the same customers or customers drawn from substantially the same area. Under these circumstances, the change of location results in a failure to carry on substantially the same trade or business as that conducted before the increase in ownership.

(10) A corporation has not continued to carry on a trade or business substantially the same as that conducted before any increase in the ownership of its stock if the corporation is primarily engaged in the rendition of services by a particular individual or individuals and, after the increase in ownership, the corporation is primarily engaged in the rendition of services by different individuals. This subparagraph may be illustrated by the following examples:

Example (1). X Corporation, a calendar-year taxpayer, is engaged in the business of selling real estate and insurance primarily through the services of individual A as broker. On June 30, 1958, individual B purchases all of the stock of X Corporation, and individual A retires from the business. During the latter part of 1958, X Corporation is engaged primarily in rendering the brokerage services of individual B in the sale of insurance and real estate. On December 31, 1958, the corporation has not continued to carry on a trade or business substantially the same as that conducted before the increase in ownership.

Example (2). Y Corporation, a calendar-year taxpayer, is engaged in the business of operating a beauty salon with 10 employees under the supervision of individual A, who owns all of the stock of Y Corporation and who is held out to the public as the corporation's principal beauty consultant. However, the quality of the services rendered by each of the 10 employees is primarily responsible for attracting the corporation's clientele. On June 30, 1958, individual B purchases all of

the outstanding stock of Y Corporation and individual A retires from the business. During 1959, Y Corporation continues to operate the beauty salon in the same location and continues to serve substantially the same group of customers with substantially the same employees under the supervision of individual B, who is held out to the public as the corporation's principal beauty consultant. On December 31, 1959, Y Corporation has continued to carry on substantially the same trade or business as that conducted before the increase in ownership.

§ 1.382(b) Statutory provisions; special limitations on net operating loss carryovers; change of ownership as the result of a reorganization.

SEC. 382. *Special limitations on net operating loss carryovers.* * * *

(b) *Change of ownership as the result of a reorganization*—(1) *In general.* If, in the case of a reorganization specified in paragraph (2) of section 381(a), the transferor corporation or the acquiring corporation—

(A) Has a net operating loss which is a net operating loss carryover to the first taxable year of the acquiring corporation ending after the date of transfer, and

(B) The stockholders (immediately before the reorganization) of such corporation (hereinafter in this subsection referred to as the "loss corporation"), as the result of owning stock of the loss corporation, own (immediately after the reorganization) less than 20 percent of the fair market value of the outstanding stock of the acquiring corporation,

the total net operating loss carryover from prior taxable years of the loss corporation to the first taxable year of the acquiring corporation ending after the date of transfer shall be reduced by the percentage determined under paragraph (2).

(2) *Reduction of net operating loss carryover.* The reduction applicable under paragraph (1) shall be the percentage determined by subtracting from 100 percent—

(A) The percent of the fair market value of the outstanding stock of the acquiring corporation owned (immediately after the reorganization) by the stockholders (immediately before the reorganization) of the loss corporation, as the result of owning stock of the loss corporation, multiplied by

(B) Five.

(3) *Exception to limitation in this subsection.* The limitation in this subsection shall not apply if the transferor corporation and the acquiring corporation are owned substantially by the same persons in the same proportion.

(4) *Net operating loss carryovers to subsequent years.* In computing the net operating loss carryovers to taxable years subsequent to a taxable year in which there was a limitation applicable to a net operating loss carryover by operation of this subsection, the income in such taxable year, as computed under section 172(b)(2), shall be increased by the amount of the reduction of the total net operating loss carryover determined under paragraph (2).

(5) *Attribution of ownership.* If the transferor corporation or the acquiring corporation owns (immediately before the reorganization) any of the outstanding stock of the loss corporation, such transferor corporation or acquiring corporation shall, for purposes of this subsection, be treated as owning (immediately after the reorganization) a percentage of the fair market value of the acquiring corporation's outstanding stock which bears the same ratio to the percentage of the fair market value of the outstanding stock of the loss corporation (immediately before the reorganization) owned by such transferor corporation or acquiring corporation as the fair market value of the total outstanding stock of the loss corporation (immediately before the reorganiza-

tion) bears to the fair market value of the total outstanding stock of the acquiring corporation (immediately after the reorganization).

(6) *Stock of corporation controlling acquiring corporation.* If the stockholders of the loss corporation (immediately before the reorganization) own, as a result of the reorganization, stock in a corporation controlling the acquiring corporation, such stock of the controlling corporation shall, for purposes of this subsection, be treated as stock of the acquiring corporation in an amount valued at an equivalent fair market value.

§ 1.382(b)-1 Change of ownership as the result of a reorganization.

(a) *In general.* (1) Section 382(b)(1) provides that if, in the case of a reorganization described in section 381(a)(2), either the transferor corporation or the acquiring corporation has a net operating loss carryover which is a carryover to the first taxable year of the acquiring corporation ending after the date of transfer, the amount of such carryover which may be used by the acquiring corporation is reduced unless the stockholders (immediately before the reorganization) of the corporation possessing the carryover (hereinafter called the "loss corporation") own, immediately after the reorganization, at least 20 percent of the fair market value of the outstanding stock of the acquiring corporation. See paragraph (b) of § 1.381(b)-1 for determination of the date of transfer, and paragraph (b) of this section for computation of the amount of the reduction.

(2) The ownership of at least 20 percent of the fair market value of the stock of the acquiring corporation after the reorganization must result from the ownership of stock in the loss corporation immediately before the reorganization. Thus, if stockholders of a transferor-loss corporation before the reorganization also own stock of the acquiring corporation at such time, such stock of the acquiring corporation is not considered as owned after the reorganization by such stockholders as a result of owning stock in the loss corporation in determining whether the 20-percent requirement is satisfied. Moreover, the stockholders (immediately before the reorganization) of a transferor-loss corporation shall not be regarded as owning, immediately after the reorganization, any stock of the acquiring corporation which is not distributed to such stockholders pursuant to the plan of reorganization.

(3) If the net operating loss carryovers of a loss corporation are reduced under section 382(b)(1), then in computing the net operating loss deduction of the acquiring corporation for its first taxable year ending after the date of transfer, that portion of such deduction which is attributable to the net operating loss carryovers of the loss corporation is limited to the amount of such carryovers minus the reduction. Thus, if the net operating loss carryovers of the loss corporation are \$100,000 and if the amount of the reduction is \$60,000, only \$40,000 of such carryovers may be used by the acquiring corporation in computing its net operating loss deduction under sec-

tion 172(a) for its first taxable year ending after the date of transfer. The reduction provided in section 382(b)(1) is applied to the aggregate of the allowable net operating loss carryovers of the loss corporation without regard to the taxable years in which the net operating losses were sustained.

(4) See paragraph (e) of this section for the effect of the reduction in subsequent taxable years of the acquiring corporation.

(5) The reduction provided by section 382(b)(1) may apply to the carryovers of more than one corporation a party to the reorganization. For example, assume that X Corporation acquires the assets of Y Corporation and of Z Corporation in a reorganization described in section 381(a)(2) and that both X Corporation and Y Corporation have net operating loss carryovers at the date of the reorganization. The reduction under section 382(b)(1) will apply to the net operating loss carryovers of X Corporation unless the stockholders (immediately before the reorganization) of X Corporation own, immediately after the reorganization, at least 20 percent of the fair market value of the outstanding stock of X Corporation. Similarly, the reduction under section 382(b)(1) will apply to the net operating loss carryovers from Y Corporation unless the stockholders (immediately before the reorganization) of Y Corporation own, immediately after the reorganization, at least 20 percent of the fair market value of the outstanding stock of Y Corporation.

(6) Section 382(b) applies only with respect to those reorganizations described in section 381(a)(2). However, a series of transactions which purport to be a reorganization qualifying under section 368(a)(1)(B) followed by a liquidation qualifying under section 332, but which in substance comprise a reorganization qualifying under section 368(a)(1)(C), will be considered as a reorganization of the last-described type for purposes of section 382(b) and this section.

(7) See § 1.382(c)-1 for definition of the term "stock" as used in this section.

(b) *Amount of reduction.* (1) The amount of the reduction provided in section 382(b)(1) shall be determined as follows:

(i) Determine the percentage of the fair market value of the outstanding stock of the acquiring corporation owned, immediately after the reorganization, by the stockholders (immediately before the reorganization) of the loss corporation, which is attributable to their ownership of stock in the loss corporation immediately before the reorganization.

(ii) If the percentage determined under subdivision (i) of this subparagraph is less than 20 percent, compute the difference between such percentage and 20 percent, and multiply such difference by five. The resulting product is the percentage by which the net operating loss carryovers are reduced.

(2) Subparagraph (1) of this paragraph may be illustrated by the following example:

Example. Assume that X Corporation acquires the assets of Y Corporation, a loss

corporation, in a reorganization described in section 381(a)(2), and that immediately after the reorganization the former stockholders of Y Corporation, as the result of owning stock of Y Corporation, own 8 percent of the fair market value of X Corporation's outstanding stock. The difference between 8 percent and 20 percent is 12 percent, which when multiplied by five produces 60 percent. Therefore, the amount of the reduction is equal to 60 percent of the net operating loss carryovers from the loss corporation, so that if the net operating loss carryovers from Y Corporation amounted to \$100,000, the amount of the reduction would be \$60,000.

(c) *Acquisitions designed to avoid section 382(b).* The purpose of the 20-percent requirement of section 382(b)(1) is to ensure that the net operating loss carryovers from a corporation a party to a reorganization will be allowed in full only when the shareholders of the loss corporation have a substantial continuing interest in the acquiring corporation, thereby ensuring that the carryovers will be utilized to some extent for the benefit of those persons who were owners of the loss corporation before the reorganization. Therefore, in applying section 382(b)(1), any acquisition of stock of a loss corporation will be disregarded if made for the purpose of avoiding the 20-percent continuity of interest requirement. Moreover, two or more successive reorganizations will be treated as if they had occurred simultaneously in cases where they are undertaken with a view to avoiding the 20-percent continuity requirement. These rules may be illustrated by the following examples:

Example (1). Assume that X Corporation desires to merge into Y Corporation, a loss corporation, in a reorganization. A and B, who are the controlling stockholders of X Corporation, with a view to avoiding the 20-percent continuity of interest requirement of section 382(b)(1), acquire for cash 40 percent of the fair market value of the outstanding stock of Y Corporation (or acquire an option to purchase such stock, which option they exercise shortly after the merger). Thereafter, Y Corporation acquires the assets of X Corporation in a reorganization to which section 381(a) applies. In determining whether the 20-percent continuity requirement is satisfied (and, if not, the amount of the reduction under section 382(b)(2)), the stock of Y Corporation purchased by A and B (or acquired upon their exercise of the option) will be considered as outstanding immediately after the reorganization but will not be considered as owned by persons who were stockholders of Y Corporation immediately before the reorganization.

Example (2). Assume that X Corporation, which has a net worth of \$2,000,000, desires to acquire the assets of Y Corporation, a loss corporation, which has a net worth of \$100,000. X Corporation also desires to acquire the assets of Z Corporation, which has a net worth of \$400,000. With a view to avoiding the 20-percent continuity requirement, Z Corporation acquires the assets of Y Corporation in a reorganization to which section 381(a) applies. Immediately after the reorganization, the former stockholders of Y Corporation own 20 percent of the fair market value of the outstanding stock of Z Corporation. Shortly thereafter, X Corporation acquires the assets of Z Corporation in a reorganization to which section 381(a) applies. Immediately after the reorganiza-

tion, the former stockholders of Y Corporation own 4 percent of the fair market value of the outstanding stock of X Corporation. Under these circumstances, the application of section 382(b)(1) to the net operating loss carryovers of Y Corporation shall be determined by reference to the fair market value of the outstanding stock of X Corporation owned, immediately after the successive reorganizations, by the stockholders (immediately before the successive reorganizations) of Y Corporation. Therefore, the net operating loss carryovers from Y Corporation will be reduced by 80 percent.

(d) *Exception to application of section 382(b).* (1) Section 382(b)(3) provides an exception to the application of the reduction provided in section 382(b)(1). Under this exception there is no reduction if, immediately before the reorganization, the transferor corporation and the acquiring corporation are owned substantially by the same persons in the same proportion. If the acquiring corporation is not in existence immediately before the reorganization (as in the case of a statutory consolidation), the requirements of section 382(b)(3) are not met unless the transferor corporations immediately before the reorganization are owned substantially by the same persons in the same proportion.

(2) The transferor corporation and the acquiring corporation will be considered as owned substantially by the same persons in the same proportion only if the same persons own substantially all the stock of the corporations in substantially the same proportion. This rule may be illustrated by the following examples:

Example (1). A and B each owns 50 percent of the fair market value of the outstanding stock of X Corporation. A owns 52 percent and B owns 48 percent of the fair market value of the outstanding stock of Y Corporation. Y Corporation acquires the assets of X Corporation in a reorganization to which section 381(a) applies. The exception provided in section 382(b)(3) is applicable.

Example (2). A and B each owns 50 percent of the fair market value of the outstanding stock of X Corporation. A owns 60 percent and B owns 40 percent of the fair market value of the outstanding stock of Y Corporation. Y Corporation acquires the assets of X Corporation in a reorganization to which section 381(a) applies. The exception provided in section 382(b)(3) is not applicable.

Example (3). A and B each owns 48 percent of the fair market value of the outstanding stock of X Corporation and of Y Corporation. C owns the remaining 4 percent of X Corporation and D owns the remaining 4 percent of Y Corporation. Y Corporation acquires the assets of X Corporation in a reorganization to which section 381(a) applies. The exception provided in section 382(b)(3) is applicable.

Example (4). A and B each owns 40 percent of the fair market value of the outstanding stock of X Corporation and of Y

Corporation. C owns the remaining 20 percent of X Corporation and D owns the remaining 20 percent of Y Corporation. Y Corporation acquires the assets of X Corporation in a reorganization to which section 381(a) applies. The exception provided in section 382(b)(3) is not applicable.

(3) If stock of the transferor or acquiring corporation is acquired or disposed of for the purpose of meeting the requirements of section 382(b)(3), then for purposes of such section such stock shall not be considered to be owned by the person who acquired it. For example, if A, owning 100 percent of the outstanding stock of X Corporation and 75 percent of the outstanding stock of Y Corporation, a loss corporation, acquires the remaining 25 percent of the outstanding stock of Y Corporation with a view to merging the two corporations, then for purposes of section 382(b)(3) such 25 percent shall not be considered to be owned by A.

(e) *Carryovers to subsequent years.* (1) The reduction provided in section 382(b)(1) applies only to net operating loss carryovers to the first taxable year of the acquiring corporation ending after the date of transfer. However, section 382(b)(4) contains a rule to ensure that the portion of the carryovers equal to the amount of the reduction will not be available for deduction in subsequent taxable years of the acquiring corporation. This rule provides that if a reduction is applicable under section 382(b)(1), then in computing net operating loss carryovers from taxable years of the transferor and acquiring corporations ending on or before the date of transfer to taxable years of the acquiring corporation subsequent to the first taxable year ending after the date of transfer, the income of the acquiring corporation for such first taxable year, as computed under section 172(b)(2) (without regard to the fact that the deduction under section 172(a) is reduced by the amount computed under section 382(b)(2)), shall be increased by the amount of the reduction computed under section 382(b)(2) for that year. The preceding rule may be illustrated by the following example:

Example. X Corporation and Y Corporation are organized on January 1, 1957, and each makes its return on the basis of the calendar year. On December 31, 1958, Y Corporation acquires the assets of X Corporation in a reorganization to which section 381(a) applies. Immediately after the reorganization, those persons who were stockholders of X Corporation immediately before the reorganization own 10 percent of the fair market value of the outstanding stock of Y Corporation. The net operating losses and the taxable income (computed without any net operating loss deduction) of the two corporations are as follows:

Year:	X Corporation (transferor)	Y Corporation (acquirer)
1957-----	(\$5,000)	(\$5,000)
1958-----	(15,000)	(1,000)
1959-----		5,000

The computation of the carryovers to Y Corporation's calendar year 1960 may be illustrated as follows:

(1) *X Corporation's 1957 loss.* The carryover to 1960 is \$0, computed as follows:

Net operating loss----- \$5,000

Less:		
X's 1958 taxable income.....		\$0
Y's 1959 taxable income before adjustment under section 382(b)(4).....	\$5,000	
Plus amount of reduction computed under section 382(b)(2) (50% of \$20,000).....	10,000	15,000
		<u>\$15,000</u>
Carryover to 1960.....		0
(ii) Y Corporation's 1957 loss. The carryover to 1960 is \$0, computed as follows:		
Net operating loss.....		\$5,000
Less:		
Y's 1958 taxable income.....		\$0
Y's 1959 taxable income before net operating loss deduction and adjustment under section 382(b)(4).....	\$5,000	
Minus Y's 1959 net operating loss deduction (i.e., X's 1957 carryover).....	5,000	
Plus amount of reduction under section 382(b)(2).....	10,000	10,000
		<u>10,000</u>
Carryover to 1960.....		0
(iii) X Corporation's 1958 loss. The carryover to 1960 is \$10,000, computed as follows:		
Net operating loss.....		\$15,000
Less:		
X's 1957 taxable income.....		\$0
Y's 1959 taxable income before net operating loss deduction and adjustment under section 382(b)(4).....	\$5,000	
Minus Y's 1959 net operating loss deduction (i.e., X's 1957 carryover of \$5,000 and Y's 1957 carryover of \$5,000).....	10,000	
Plus amount of reduction under section 382(b)(2).....	10,000	5,000
		<u>5,000</u>
Carryover to 1960.....		10,000
(iv) Y Corporation's 1958 loss. The carryover to 1960 is \$1,000, computed as follows:		
Net operating loss.....		\$1,000
Less:		
Y's 1957 taxable income.....		\$0
Y's 1959 taxable income before net operating loss deduction and adjustment under section 382(b)(4).....	\$5,000	
Minus Y's 1959 net operating loss deduction (i.e., X's 1957 carryover of \$5,000, Y's 1957 carryover of \$5,000, and X's 1958 carryover of \$15,000).....	25,000	
Plus amount of reduction under section 382(b)(2).....	10,000	0
		<u>0</u>
Carryover to 1960.....		1,000

(v) Summary of carryovers to 1960. The aggregate of the net operating loss carryovers to 1960 is \$11,000, computed as follows:

X's 1958 loss.....	\$10,000
Y's 1958 loss.....	1,000
Total.....	11,000

(2) If the date of transfer is on a day other than the last day of a taxable year of the acquiring corporation, and if the reduction provided in section 382(b)(1) applies to net operating loss carryovers of the transferor corporation, then for purposes of section 381(c)(1)(C), the adjustment provided in section 382(b)(4) shall be considered as an increase in income of the "postacquisition part year" and no portion of such adjustment shall be considered as an increase in income of the "preacquisition part year."

(f) Attribution of ownership. (1) Section 382(b)(5) provides a special rule for determining whether the reduction provided in section 382(b)(1) applies in cases where, immediately before the reorganization, either the transferor cor-

poration or the acquiring corporation owns outstanding stock of the loss corporation. Under this rule, the transferor or acquiring corporation (whichever owns stock of the loss corporation) is treated as owning, immediately after the reorganization, a percentage, A, of the fair market value of the acquiring corporation's outstanding stock which bears the same ratio to B (the percentage of the fair market value of the stock of the loss corporation owned, immediately before the reorganization, by such transferor or acquiring corporation) as C (the fair market value of the outstanding stock of the loss corporation immediately before the reorganization) bears to D (the fair market value of the outstanding stock of the acquiring corporation immediately after the reorganization). Stated algebraically, the percentage of the fair market value of the acquiring corporation's outstanding stock treated as owned by the transferor or acquiring corporation immediately after the reorganization, A, equals—

$$\frac{\text{Value of stock of loss corporation immediately before reorganization (C)}}{\text{Value of stock of acquiring corporation immediately after reorganization (D)}} \times \frac{\text{Percentage of stock of loss corporation owned by transferor or acquiring corporation immediately before reorganization (B)}}{1}$$

The preceding rule may be illustrated by the following examples:

Example (1). Assume that X Corporation owns 25 percent of the fair market value of the outstanding stock of Y Corporation, a loss corporation; that X Corporation acquires the assets of Y Corporation in a reorganization to which section 381(a) applies; that immediately before the reorganization the total outstanding stock of Y Corporation has a fair market value of \$10,000; and that immediately after the reorganization the total outstanding stock of X Corporation has a fair market value of \$50,000. For the purpose of determining whether the reduction provided in section 382(b)(1) is applicable (and, if so, the amount of the reduction computed under section 382(b)(2)), X Corporation is treated as owning (immediately after the reorganization) 5 percent of the fair market value of its outstanding stock, determined as follows:

$$\frac{\$10,000 \text{ (C)}}{\$50,000 \text{ (D)}} \times 25\% \text{ (B)} = 5\% \text{ (A)}$$

Thus, if the other former stockholders of Y Corporation own, after the reorganization, at least 15 percent of the fair market value of the outstanding stock of X Corporation as the result of owning stock in Y Corporation, there will be no reduction under section 382(b)(1).

Example (2). Assume the same facts as in example (1), except that Y Corporation acquires the assets of X Corporation in a reorganization to which section 381(a) applies and that immediately after the reorganization the total outstanding stock of Y Corporation has a fair market value of \$50,000. The result is the same as that in example (1). X Corporation is treated as owning (immediately after the reorganization) 5 percent of the fair market value of the outstanding stock of Y Corporation. Thus, there will be no reduction under section 382(b)(1) if those persons (other than X Corporation) who were stockholders of Y Corporation immediately before the reorganization own at least 15 percent of the fair market value of the outstanding stock of Y Corporation immediately after the reorganization.

(2) The provisions of paragraph (5) of section 382(b) do not apply with respect to an interest in a loss corporation which is acquired for the purpose of avoiding the 20-percent continuity of interest requirement of section 382(b)(1). Thus, paragraph (5) of section 382(b) does not apply with respect to stock of a loss corporation which is acquired by another corporation with a view to causing a merger of the two corporations. For example, if X Corporation owns 15 percent of the fair market value of the outstanding stock of Y Corporation, a loss corporation, and if X Corporation purchases an additional 15 percent with a view to causing a merger of the two corporations, paragraph (5) of section 382(b) applies only with respect to the stock previously held by X Corporation and not to the stock so purchased.

(g) Stock of corporation controlling acquiring corporation. (1) Section 382(b)(6) provides a special rule for determining whether the reduction provided in section 382(b)(1) applies in cases where the transferor corporation is a loss corporation and the former stockholders of the loss corporation own, as a result of the reorganization, stock in a corporation which controls (within the meaning of section 368(c)) the acquiring

corporation. In such cases, the former stockholders of the loss corporation are treated as owning, after the reorganization, stock of the acquiring corporation equal in value to the fair market value of their stock in the controlling corporation. This rule may be illustrated by the following example:

Example. X Corporation owns 100 percent of the stock of Y Corporation. In a reorganization to which section 381(a) applies, Y Corporation acquires the assets of Z Corporation, a loss corporation, in exchange for stock of X Corporation. Immediately after the reorganization the total outstanding stock of Y Corporation has a fair market value of \$50,000, and the stockholders (immediately before the reorganization) of the loss corporation own, as a result of the reorganization, stock of X Corporation having a fair market value of \$20,000. For the purpose of determining whether the reduction provided in section 382(b)(1) is applicable (and, if so, the amount of the reduction computed under section 382(b)(2)), the former stockholders of the loss corporation are treated as owning stock of Y Corporation worth \$20,000 (the value of their stock in X Corporation), which is 40 percent (\$20,000 divided by \$50,000) of the fair market value of the outstanding stock of the acquiring corporation.

(2) The 20-percent continuity of interest requirement of section 382(b)(1) applies with respect to an interest in the corporation desiring to utilize the net operating loss carryovers from the loss corporation. Thus, the provisions of section 382(b)(6) and of subparagraph (1) of this paragraph apply only if, at the time of the reorganization, it is intended that the acquiring corporation itself, and not the corporation which controls the acquiring corporation, shall make use of the net operating loss carryovers from the loss corporation. Section 382(b)(6) and subparagraph (1) of this paragraph do not apply if the loss corporation is acquired by a controlled corporation with a view to the liquidation of the controlled corporation into its parent at a time when a substantial part of the net operating loss carryovers from the loss corporation remain to be utilized. (This requirement is satisfied in any case in which such action was contemplated at the time of the reorganization by those persons in a position to determine the policies of the controlled corporation.) In such case, it is the controlling corporation, instead of the controlled corporation, in which the former stockholders of the loss corporation must own a 20-percent interest. Thus, assume in the example appearing in subparagraph (1) of this paragraph, that the total fair market value of the outstanding stock of X Corporation immediately after the reorganization is \$200,000 and that X Corporation causes Y Corporation to be liquidated at a time when a substantial part of the loss carryovers from Z Corporation remain to be utilized. Under these circumstances, the former stockholders of the loss corporation would own after the reorganization only 10 percent (\$20,000 divided by \$200,000) of the fair market value of the outstanding stock of the controlling corporation and the net operating loss carryovers from Z Corporation to the first taxable year of Y Corporation ending after the date of transfer would accordingly be reduced by 50 percent.

§ 1.382(c) Statutory provisions; special limitations on net operating loss carryovers; definition of stock.

Sec. 382. *Special limitations on net operating loss carryovers.* * * *

(c) *Definition of stock.* For purposes of this section, "stock" means all shares except nonvoting stock which is limited and preferred as to dividends.

§ 1.382(c)-1 Definition of stock.

Section 382(c) contains the definition of the term "stock" for purposes of section 382(a) and (b). For these purposes, the term "stock" means all outstanding shares except nonvoting stock which is limited and preferred as to dividends.

§ 1.394 Statutory provisions; effective date of part V, subchapter C, chapter 1 of the Code.

Sec. 394. *Effective date of part V—(a) Section 381.* Except as otherwise provided in this subchapter, section 381 shall apply to liquidations and reorganizations, the tax treatment of which is determined under this Code.

(b) *Section 382(a).* For purpose of applying the special limitation on net operating loss carryovers in section 382(a), the beginning of the taxable years specified in clauses (i) and (ii) of section 382(a)(1)(A) shall be considered to be the beginning of such taxable years or June 22, 1954, whichever occurs later.

(c) *Section 382(b).* Section 382(b) shall apply to reorganizations, the tax treatment of which is determined under this Code.

§ 1.394-1 Effective date of part V of subchapter C.

(a) *Section 381.* Section 394(a) provides that, except as otherwise provided in subchapter C, chapter 1 of the Code, section 381 shall apply to liquidations and reorganizations, the tax treatment of which is determined under the Internal Revenue Code of 1954. For such liquidations, see section 392 and the regulations thereunder. For such reorganizations, see section 393 and the regulations thereunder.

(b) *Section 382(a).* Section 394(b) provides that for purposes of applying the special limitation on net operating loss carryovers contained in section 382(a), the beginning of the taxable years specified in clauses (i) and (ii) of section 382(a)(1)(A) shall be considered to be the beginning of such taxable years or June 22, 1954, whichever occurs later. Thus, if X Corporation made its returns for 1954 and 1955 on the basis of the calendar year, then in determining whether the limitation contained in section 382(a) applies as of December 31, 1954, the beginning of the taxable years specified in clauses (i) and (ii) of section 382(a)(1)(A) would be June 22, 1954, and in determining whether section 382(a) applies as of December 31, 1955, the beginning of the taxable year specified in clause (i) of section 382(a)(1)(A) would be January 1, 1955, and the beginning of the taxable year specified in clause (ii) of section 382(a)(1)(A) would be June 22, 1954.

(c) *Section 382(b).* Section 394(c) provides that section 382(b) shall apply to reorganizations, the tax treatment of which is determined under the Internal

Revenue Code of 1954. See section 393 and the regulations thereunder.

[F.R. Doc. 62-11016; Filed, Nov. 2, 1962; 8:47 a.m.]

Title 6—AGRICULTURAL CREDIT

Chapter I—Farm Credit Administration

SUBCHAPTER G—FEDERAL FARM MORTGAGE CORPORATION

REVOCATION OF SUBCHAPTER

The Federal Farm Mortgage Corporation was abolished and, except to the extent provided therein, all of its powers, duties, functions, and authority were terminated by Public Law 87-353 (75 Stat. 773). Therefore, Subchapter G of Chapter I, Title 6 of the Code of Federal Regulations is revoked.

(Sec. 7, 67 Stat. 393, as amended, sec. 6, 47 Stat. 14, as amended, sec. 1, 75 Stat. 773; 12 U.S.C. 636f(a), 665)

HAROLD T. MASON,
Acting Governor,
Farm Credit Administration.

[F.R. Doc. 62-11017; Filed, Nov. 2, 1962; 8:47 a.m.]

Chapter IV—Commodity Credit Corporation, Department of Agriculture

SUBCHAPTER C—EXPORT PROGRAMS

[Amdt. 1; Rev. III]

PART 483—WHEAT AND FLOUR

Subpart—Wheat Export Program—Payment in Kind (GR-345) Terms and Conditions

The Terms and Conditions of the Wheat Export Program—Payment in Kind (GR-345) (27 F.R. 6415), are amended herein as follows:

Section 483.121(d) is amended to read as follows:

(d) A sale shall not be considered as made until the purchase price has been established, and time of sale shall be the earliest time the exporter has knowledge that a firm contract exists with the foreign buyer on which a firm dollar and cent price has been established pursuant to paragraphs (a), (b), and (c) of this section. Any contract provisions which entail provisional, or basic or maximum or minimum prices to be adjusted at a future date, may affect the time of sale for purposes of this subpart. For example, a contract will be considered to have a firm dollar and cent price if it contains a maximum price which can be reduced only at the seller's option or a minimum price which can be increased only at the buyer's option. However, if a contract would be firm but for the fact that it is conditioned upon receipt of approval from CCC for financing under Public Law 480 (83d Congress), as amended, such condition shall be disregarded for the purpose of determining the time of sale. On any sale under Public Law 480, as amended,

where the price of the wheat and/or commission originally reported by the exporter was disapproved, the exporter shall have five calendar days following the date of the notification telegram within which to submit a price and/or commission which may be approved by the General Sales Manager. If within this period, an acceptable price and/or commission is submitted, the time of sale for payment purposes will be regarded as the time of the original sale and the export payment rate applicable to the sale will be the rate in effect at time of original sale or the time of giving the original Notice of Sale whichever is the lower.

Section 483.125(a) is amended by adding a new subparagraph (5) to read as follows:

(5) If the price of the wheat and/or commission in a sale under Public Law 480 as amended is disapproved by the General Sales Manager, the exporter will be so notified by telegram and the transaction will not be registered for payment. In such event the exporter shall have five calendar days (See § 483.121(d)) following the date of the notification telegram within which to submit a price and/or commission which may be approved by the General Sales Manager. During such five day period CCC will not recognize, for purposes of this program, either a cancellation of the transaction originally reported to CCC or any new sale between the same exporter and foreign buyer in substitution of the original transaction reported to CCC. If an acceptable price and/or commission is not submitted within such five day period, the original Notice of Sale, any subsequent advices of price and/or commission adjustments and the related contract between the exporter and the foreign buyer shall, for the purposes of this program, be considered null and void. Any subsequent negotiations after expiration of such five day period which result in a contract between the exporter and the same foreign buyer shall be considered as a new sale for the purpose of this program and shall be subject to the submission of a new Notice of Sale and new evidence of sale.

Section 483.125(b) is amended to read as follows:

(b) *Information required.* In giving Notice of Sale the exporter must report the following information:

- (1) Date of sale.
- (2) Contract quantity in bushels and the contract loading tolerance, if any, in percentage but not in excess of 10 percent, more or less.
- (3) The sale price must be shown on an f.o.b. vessel bulk basis. The f.o.b. price shown shall include all charges and commissions necessary to the sale and moving of the wheat to the f.o.b. position. For example, a selling agent's commission would be included, whereas guaranteed outturn insurance would not be included.
- (4) Coast or coasts of export (specify Atlantic, Great Lakes, St. Lawrence River ports, etc.) and any options to be

exercised by the exporter and/or the foreign buyer.

- (5) Country of destination.
- (6) Name of purchaser or purchasers.
- (7) Delivery period specified in contract.
- (8) Class and grade of wheat, protein content or sedimentation value if specified in contract, and any additional commodity specifications in the contract.
- (9) If under subparagraph (4) of this paragraph, more than one coast of export is shown, indicate the ASCS Commodity Office (Evanston, Dallas or Portland), to which the exporter will submit Application for Wheat Export Payment.
- (10) The word "Abroad" for wheat exported prior to sale. (See § 483.109(d).)

(11) Such additional information in individual cases as may be requested by the Contracting Officer, CCC.

For sales subject to the provisions of Public Law 480, as amended, the exporter shall furnish the following additional information:

- (12) Purchase Authorization number.
- (13) Sales contract or order number, if any.
- (14) Time of sale.
- (15) Complete packaging description and packaging material specifications if exportation of the wheat is other than in bulk.
- (16) Sale price for bagged wheat. This is in addition to the f.o.b. vessel bulk basis price required to be furnished in subparagraph (3) of this paragraph (b).
- (17) Name of sales agent, if any, and rate of sales commission.
- (18) Delivery terms (f.o.b., f.a.s., etc.).
- (19) A statement as to whether or not the exporter is an affiliate of the importer.
- (20) If the exporter is an affiliate of the importer, the price information required by 7 CFR § 11.11(d) (1), (2), and (3) of the regulations governing sales of agricultural commodities for foreign currencies or by 7 CFR § 14.7(a) (1), (2), and (3) of the regulations governing sales of agricultural commodities on credit under long-term supply contracts, as appropriate.

Section 483.126(b) is amended to read as follows:

(b) In the telegram of registration, the Contracting Officer may utilize the code letters REP to indicate Registered as Eligible for Payment. In addition, with respect to sales made subject to the appropriate provisions of Title I or Title IV of Public Law 480 (83d Congress), as amended, the code letters PAF 480 shall constitute notice to the exporter that the price of the wheat and the commission, if any, have been approved by the General Sales Manager, for financing under regulations issued pursuant to Titles I or IV. If the price of the wheat and/or commission is disapproved by the General Sales Manager, the exporter will be so advised by telegram and the transaction will not be registered for payment.

Section 483.127(a) (2) is amended to read as follows:

(2) The Declaration of Sale except for transactions under Public Law 480, as amended, must be submitted in an original and three copies all of which shall be signed in an original signature by the exporter or his authorized representative. One copy of the Declaration of Sale will be acknowledged and returned to the exporter. The Declaration of Sale covering transactions under Public Law 480, as amended, must be submitted in an original and six copies all of which shall be signed in an original signature by the exporter or his authorized representative. Two copies of each such Declaration of Sale will be returned to the exporter, signed by the Contracting Officer, and countersigned by the General Sales Manager or his designee confirming approval for financing under Public Law 480, as amended.

Section 483.127(b) is amended to read as follows:

(b) *Information required.* The information to be entered on the Declaration is as follows:

- (1) The Registration number.
- (2) Date and time of sale and of filing notice of sale.
- (3) Name of purchaser, or purchasers.
- (4) Country of destination.
- (5) Contract quantity in bushels, and if the contract provides for a loading tolerance, the amount of such tolerance in percentage but not to exceed 10 percent more or less.
- (6) Class and grade of wheat.
- (7) The sales price in the case of bulk wheat must be given on an f.o.b. vessel, bulk basis. The f.o.b. price shown should include all charges and commissions necessary to the sale and the moving of the wheat to the f.o.b. position. For example, a selling agent's commission would be included, whereas guaranteed outturn insurance would not be included.
- (8) Delivery period specified in the contract.
- (9) Coastal area from which it is anticipated exportation will be made. (Specify Atlantic, Great Lakes, St. Lawrence River ports, etc.)
- (10) Export payment rate per bushel of wheat in effect as determined by § 483.121.
- (11) ASCS Commodity Office to which Application for Wheat Export Payment will be submitted.

(12) Where the exporter intends to ship, tranship, or cause wheat to be shipped or transhipped to one or more of the countries or areas to which a validated license is required by the Bureau of International Programs, U.S. Department of Commerce, the license issued for such movement by such agency shall be identified.

(13) Such additional information in individual cases as may be requested by the Contracting Officer, CCC.

For sales subject to the provisions of Public Law 480, as amended, the exporter shall furnish the following additional information on the Declaration of Sale under the heading "Additional Information."

- (14) Purchase authorization number.
- (15) Sales contract or order number, if any.

(16) Complete packaging description and packaging material specifications if exportation of the wheat is other than in bulk.

(17) Sale price for bagged wheat. This is in addition to the f.o.b. vessel bulk basis price required to be furnished in subparagraph (7) of this paragraph (b).

(18) Name of sales agent, if any, and rate of commission.

(19) Delivery terms (f.o.b., f.a.s., etc.).

(20) A statement as to whether or not the exporter is an affiliate of the importer.

(21) If the exporter is an affiliate of the importer, the price information required by 7 CFR § 11.11(d) (1), (2), and (3) of the regulations governing sales of agricultural commodities for foreign currencies or by 7 CFR § 14.7(a) (1), (2), and (3) of the regulations governing sales of agricultural commodities on credit under long-term supply contracts, as appropriate.

Section 483.147(e) is amended to read as follows:

(e) In the event of exportation from a point in Canada, (1) the bill of lading and other documentary evidence as specified by the applicable ASCS Commodity Office covering the movement of the wheat from the United States to the export vessel described in the on-board ship bill of lading issued at the point of export, and (2) a certification by the exporter that the wheat exported was produced in the United States.

Section 483.162(e) is amended to read as follows:

(e) In the event of exportation from a point in Canada, (1) the bill of lading and other documentary evidence as specified by the applicable ASCS Commodity Office covering the movement of wheat from the United States to the export vessel described in the bill of lading issued at the point of export, and (2) a certification by the exporter that the wheat exported was produced in the United States.

The effective date is the date on which this amendment is filed for public inspection by the Office of the Federal Register. With respect to sales under Public Law 480, as amended, this amendment is applicable only to contracts entered into between exporters and foreign buyers pursuant to Purchase Authorizations signed subsequent to the effective date of this amendment.

NOTE: The record keeping and reporting requirements contained herein have been approved by the Bureau of the Budget in accordance with the Federal Reports Act of 1942.

(Secs. 483.101 to 483.199 issued under secs. 4 and 5, 62 Stat. 1070 and 1072; sec. 2, 63 Stat. 945, as amended; sec. 407, 63 Stat. 1051 as amended; sec. 201(a), 70 Stat. 188; 15 U.S.C. 714 b and c, 7 U.S.C. 1641, 1427, 1851)

Issued at Washington, D.C., this 29th of October 1962.

H. D. GODFREY,
Executive Vice President,
Commodity Credit Corporation.

[F.R. Doc. 62-11027; Filed, Nov. 1, 1962; 12:35 p.m.]

Title 7—AGRICULTURE

Chapter VII—Agricultural Stabilization and Conservation Service (Agricultural Adjustment), Department of Agriculture

SUBCHAPTER A—AGRICULTURAL CONSERVATION PROGRAM

[ACP-1963, Supp. 1]

PART 701—NATIONAL AGRICULTURAL CONSERVATION

Subpart—1963

STATE FUNDS

Paragraph (a) of § 701.2 is amended, for purposes of the 1963 program, to read as follows:

§ 701.2 State funds.

(a) Funds available for conservation practices will be distributed among States on the basis of conservation needs, but the proportion allocated for use in any State shall not be reduced more than 15 percent from its proportionate 1962 distribution. The allocation of funds among the States is as follows:

Alabama	6,009,000
Alaska	64,000
Arizona	1,595,000
Arkansas	4,833,000
California	5,761,000
Colorado	3,340,000
Connecticut	471,000
Delaware	318,000
Florida	2,916,000
Georgia	7,220,000
Hawaii	176,000
Idaho	1,871,000
Illinois	8,658,000
Indiana	5,633,000
Iowa	9,481,000
Kansas	6,408,000
Kentucky	7,004,000
Louisiana	4,280,000
Maine	989,000
Maryland	1,250,000
Massachusetts	548,000
Michigan	5,042,000
Minnesota	6,191,000
Mississippi	6,465,000
Missouri	8,896,000
Montana	4,118,000
Nebraska	6,310,000
Nevada	448,000
New Hampshire	528,000
New Jersey	691,000
New Mexico	2,021,000
New York	4,570,000
North Carolina	6,449,000
North Dakota	4,569,000
Ohio	5,964,000
Oklahoma	7,178,000
Oregon	2,328,000
Pennsylvania	4,753,000
Puerto Rico	849,000
Rhode Island	79,000
South Carolina	3,568,000
South Dakota	4,486,000
Tennessee	5,108,000
Texas	19,872,000
Utah	1,355,000
Vermont	1,090,000
Virginia	4,475,000
Virgin Islands	13,000
Washington	2,484,000
West Virginia	1,523,000

Wisconsin ----- \$5,520,000
Wyoming ----- 2,112,000

Total ----- 207,880,000

(Sec. 4, 49 Stat. 164, secs. 7 to 17, 49 Stat. 1148, as amended, 76 Stat. 1203; 16 U.S.C. 590d, 590g-590q)

Signed at Washington, D.C., on October 30, 1962.

ORVILLE L. FREEMAN,
Secretary.

[F.R. Doc. 62-11038; Filed, Nov. 2, 1962; 8:49 a.m.]

SUBCHAPTER B—FARM MARKETING QUOTAS AND ACREAGE ALLOTMENTS

[Amdt. 2]

PART 724—BURLEY, FLUE-CURED, FIRE-CURED, DARK AIR-CURED, VIRGINIA SUN-CURED, CIGAR-BINDER (TYPES 51 AND 52), CIGAR-FILLER AND BINDER (TYPES 42, 43, 44, 53, 54 AND 55), AND MARYLAND TOBACCO

Subpart—Tobacco Marketing Quota Regulations, 1963-64 and Subsequent Marketing Years

(1) *Basis and purpose.* This amendment to the above-designated regulations (27 F.R. 8937, 9211) is issued pursuant to the Agricultural Adjustment Act of 1938, as amended (7 U.S.C. 1281 et seq.), as further amended by Pub. L. 87-824, approved October 15, 1962, to exempt cigar-filler and binder (types 42, 43, 44, 53, 54 and 55) tobacco for the 1963 crop year from the lease and transfer provisions contained in § 724.67 of such regulations. The regulations became effective on September 8, 1962, and since this amendment does no more than incorporate in regulations specific provisions of Pub. L. 87-824, it is hereby found that compliance with the public notice, procedure, and effective date requirements of the Administrative Procedure Act (5 U.S.C. 1003) is unnecessary.

(2) *The amendment.* The expression "cigar-filler and binder (types 42, 43, 44, 53, 54 and 55)," is eliminated from paragraph (a) of § 724.67, and the period at the end of paragraph (b) of § 724.67 is changed to a comma and the following wording inserted immediately thereafter: "Provided, That no such lease shall be renewed for 1963 for cigar-filler and binder (types 42, 43, 44, 53, 54 and 55) tobacco."

(Secs. 316, 375, 75 Stat. 469, as amended, 52 Stat. 66, as amended; 7 U.S.C. 1314b, 1375, Pub. Laws 87-530, 87-824)

Effective date: Date of publication in the FEDERAL REGISTER.

Signed at Washington, D.C., on October 31, 1962.

ROBERT G. LEWIS,
Acting Administrator, Agricultural Stabilization and Conservation Service.

[F.R. Doc. 62-11037; Filed, Nov. 2, 1962; 8:49 a.m.]

Chapter VIII—Agricultural Stabilization and Conservation Service (Sugar), Department of Agriculture

SUBCHAPTER B—SUGAR REQUIREMENTS AND QUOTAS

[Sugar Reg. 810, Amdt. 1]

PART 810—PROCESSINGS OF SUGAR WHICH CONSTITUTE FURTHER REFINEMENT OR IMPROVEMENT IN QUALITY, AND DISTINCTION OF SUGARS OF SPECIFIC QUALITIES AS RAW SUGAR OR DIRECT-CONSUMPTION SUGAR

Temporary Applicability of Terms

Basis and purpose. This amendment is issued pursuant to provisions of the Sugar Act of 1948, as amended (61 Stat. 922, as amended), hereinafter referred to as the "Act", for the purpose of modifying in accordance with the provisions of section 101(n) of the Act, the provisions of Sugar Regulation 810 relating to the distinction of sugars of specific qualities as raw or direct-consumption sugar, as defined in paragraphs (d) and (e) of section 101 of the Act.

Preliminary statement. Section 101 (n) of the Sugar Act of 1948, as amended, authorizes the Secretary, after such hearing and upon such notice as he may by regulations prescribe, to determine: (1) whether the specific processes to which sugars are subjected meet the requirements of the definition of the phrase "to be further refined or improved in quality" as contained in such section and (2) whether sugars of specific qualities are raw sugar or direct-consumption sugar within the meanings, respectively, of paragraphs (d) and (e) of section 101 of the Act.

Pursuant to the applicable rules of practice and procedure (7 CFR 801.1-801.20), a notice was published on August 13, 1962 (27 F.R. 8077), of a public hearing to be held in Washington, D.C., at the United States Department of Agriculture on August 24, 1962, at 10:00 a.m., e.d.t., for the purpose of receiving evidence which would enable the Secretary to determine the desirability and need for a modification of the provisions of Sugar Regulation 810 (7 CFR, Part 810) relating to the distinction of sugars of specific qualities as raw or direct-consumption sugar.

The hearing was held at the place and time specified in the notice and testimony and evidence was heard at that time and on September 4, September 19, and September 20, 1962. Subsequently, written briefs and proposed findings and conclusions were filed by interested persons within the period specified for that purpose.

In arriving at the findings and conclusions contained herein all of the written briefs and proposed findings and conclusions were carefully and fully considered with the record evidence pertaining thereto. To the extent that findings and conclusions proposed by interested persons are inconsistent with the findings and conclusions contained herein, such specific or implied requests to make such findings or reach such conclusions

are overruled and denied on the basis of the facts found and the conclusions reached, and the reasons therefor as herein set forth.

Omission of recommended decision and effective date. The record discloses that India can supply sugar to fill the quota prescribed in the Act for that country only with sugar testing in excess of 99 degrees. Approximately 2 months is required to make the necessary arrangements for and load and ship sugar from India to the country. Accordingly, in order to utilize the quota established for India in accordance with the quota provisions of the Act, it will be necessary for that country to arrange for the shipment of the prescribed quality of sugar without delay. Accordingly, due and timely execution of the functions imposed upon the Secretary under the Act of making sugar available to consumers under the quotas provided by Congress in the Act, imperatively and unavoidably requires the omission of a recommended decision in this proceeding. Also, in view of the circumstances cited above, it is also further found that compliance with the 30-day effective date requirements of the Administrative Procedure Act is unnecessary, impracticable and contrary to the public interest and, consequently, the amendments made herein shall become effective when filed with the FEDERAL REGISTER.

Reasons for findings and conclusions. Section 101(n) of the Act defines the term "to be further refined and improved in quality" and authorizes the Secretary to implement the language contained therein by determining (1) whether specific processes to which sugar is subjected are sufficient to meet the requirements of paragraph (n) and (2) whether sugars of specific qualities are raw sugar or direct-consumption sugar within the meaning of sections 101(d) and 101(e) of the Act, respectively.

The Secretary has established in Sugar Regulation 810, which became effective January 1, 1958, (1) the detailed descriptions of the processes enumerated in section 101(n) and the circumstances under which the processes will be recognized as having been applied to specific importations of sugar, and (2) quality standards to distinguish raw sugar from direct-consumption sugar.

The quality standard with respect to sugar principally of crystalline structure consists of a demarcation line at 99 percent of sugar content. Sugar, if principally of crystalline structure, containing more than 99 percent of sugar content is classified as direct-consumption sugar whether or not it later is subjected to the enumerated processes. Sugar, if principally of crystalline structure, containing not more than 99 percent of sugar content is eligible for classification as raw sugar provided it later is subjected to the enumerated processes.

The quality standard consisting of the demarcation line of 99 percent sugar content for sugar principally of crystalline structure was instituted at the beginning of 1958 when the preponderance of our sugar imports came from Cuba, a country well equipped and accus-

tomed to producing and stockpiling raw sugar of less than 99 percent sugar content for the United States market. Since that time, the source of our sugar imports has been diffused to many countries. In the amendment to the Sugar Act, which became effective in July 1962, quotas were established for 24 countries and pending the resumption of diplomatic relations with Cuba, the quota of that country was made available to Western Hemisphere countries and to "foreign countries as a group". A number of these countries are not accustomed to producing raw sugar containing less than 99 percent sugar content. This change in the source of our sugar imports may impair the continuing security of sugar supplies for the American people if the quality standard established in 1958 under one set of circumstances is continued at this time under a completely different set of circumstances.

The demand for sugar continues throughout the year and is subject to change at any time and under some circumstances to extreme change. On the other hand, the harvesting of sugarcane and the manufacture of raw sugar in the various countries of the world is restricted to a portion of the year. Once the sugar has been manufactured in a form containing more than 99 percent sugar content, it can be transformed into a lower quality product only by the application of additional and considerable expense and effort. Most of the countries which have quotas process the preponderance of their sugar for local consumption and for markets other than the United States.

In these circumstances, they must decide during the processing period what their market opportunities may be in the United States in order to avoid producing too much low quality sugar not suitable for other markets. If the demand in the United States subsequently increases, we can not then obtain sugars from these sources in excess of the quantities which they had predetermined for disposition in the United States market because (1) the quantity of sugar that can be imported into the United States for direct consumption from each country is stringently limited under the provisions of the Act, and (2) the quality criterion of the present regulation makes it impossible for the high quality raw sugar to be classified as raw sugar.

The amendments to the Act which expanded sources of sugar supplies among foreign countries became effective July 13, 1962. A number of countries have been unable to adjust their production to enable them to provide supplies of sugar meeting the quality requirements of raw sugar. To maximize the available sources of sugar supplies for consumers in this country under unforeseeable future circumstances during the balance of the year, it is essential that the quality standard established in Sugar Regulation 810 be suspended to protect the interest of United States consumers of sugar during the balance of 1962. It is equally essential that the detailed descriptions of the enumerated processes to which raw sugar must be subjected

and the circumstances under which the processes will be recognized as having been applied, as contained in Sugar Regulation 810, be continued. This is required because raw sugar of more than 99 percent sugar content must be subjected to the enumerated processes to transform the sugar into a product which is acceptable under the standards maintained by consumers of sugar in the United States. Thus, the integrity of the direct-consumption limitations prescribed in the Sugar Act can be maintained without recourse to the quality criterion as represented by the 99 percent sugar content demarcation line.

Findings and conclusions. On the basis of the record of the hearing in this proceeding I hereby find and conclude that:

(1) The findings and conclusions hereafter made in paragraphs (2) and (3) are necessary to be in effect for the period beginning on the effective date of this amendment and ending on December 31, 1962, in order that sugar will be available from as many sources as possible during such period to meet the requirements of consumers in the United States.

(2) Any sugars principally of crystalline structure which either are brought or imported into the continental United States to be subjected to the specific processes required under § 810.3 and thereafter are subjected to such processes, or are brought or imported into the continental United States not to be subjected to the specific processes required under § 810.3 but thereafter are subjected to such processes, are sugars of the specific qualities which are raw sugar within the meaning of section 101(d) of the Act, regardless of the total sugar content of such sugars.

(3) Any sugars principally of crystalline structure which are brought or imported into the continental United States either to be subjected to or not to be subjected to the specific processes set forth in § 810.3 and thereafter are not subjected to such processes are sugars of the specific qualities which are direct-consumption sugar within the meaning of section 101(e) of the Act.

By virtue of the authority vested in the Secretary of Agriculture by the Sugar Act of 1948, as amended (61 Stat. 922, as amended), Part 810 of Chapter VIII, Title 7 of the Code of Federal Regulations (Sugar Regulation 810) is amended by adding the following new § 810.11:

§ 810.11 Temporary applicability of terms "raw sugar" and "direct-consumption sugar".

Notwithstanding the provisions of §§ 810.4 and 810.5, and during the period beginning with the effective date of this section and ending December 31, 1962:

(a) For quota purposes, sugar is of the specific quality of raw sugar within the meaning of section 101(d) of the Act: *Provided, That,*

(1) The sugar is subjected to the specific processes as provided in § 810.3; and

(2) The sugar, if principally not of crystalline structure, has a total sugar content of not more than 99.00 percent of the total soluble solids content and

an ash content of not less than 0.20 percent of the total soluble solids content.

(b) For quota purposes sugar is of the specific quality of direct-consumption sugar within the meaning of section 101(e) of the Act; *Provided, That,*

(1) The sugar, if principally not of crystalline structure, has a total sugar content of more than 99.00 percent of the total soluble solids content or an ash content of less than 0.20 percent of the total soluble solids content; or

(2) The sugar, if principally of crystalline structure, or, if principally not of crystalline structure having a total sugar content of not more than 99.00 percent of the total soluble solids content and an ash content of not less than 0.20 percent of the total soluble solids content, is not subjected to the specific processes as provided in § 810.3; or,

(3) The sugar, if principally not of crystalline structure, is not subjected to quality evaluation as provided in § 810.8.

(Sec. 403, 61 Stat. 932; 7 U.S.C. 1153. Interpret and apply secs. 101, 406, 410, 61 Stat. 922, 933; 7 U.S.C. 1101, 1156, 1160)

Issued at Washington, D.C., this 31st day of October 1962.

CHARLES S. MURPHY,
Under Secretary.

[F.R. Doc. 62-10994; Filed, Nov. 1, 1962; 12:35 p.m.]

SUBCHAPTER G—DETERMINATION OF PROPORTIONATE SHARES

[Sugar Determination 851.1]

PART 851—COMMITMENT OF NATIONAL SUGARBEET ACREAGE RESERVE, 1962 AND SUBSEQUENT CROPS

Pursuant to the provisions of the Sugar Act of 1948, as amended, and effective upon publication in the FEDERAL REGISTER, Chapter VIII of Title 7 of the Code of Federal Regulations is amended by adding to Subchapter G a new Part 851, as above entitled, and by adding in Part 851 a new § 851.1 containing provisions pertaining to commitment of sugarbeet acreage from the national reserve, as follows:

§ 851.1 Commitments of sugarbeet acreage from the national reserve.

(a) **Purpose.** The purpose of this section is to provide for the distribution of acreage reserved for the growth and expansion of the beet sugar industry from the national sugarbeet acreage requirement for each crop (beginning with the 1962 crop) within the limits of the acreage required to yield 65,000 short tons, raw value, of sugar, and to specify conditions under which such reserve acreage is to be used and is to be protected in subsequent proportionate share determinations.

(b) **Definitions.** For the purpose of this section, the following terms shall have the meanings as defined in Part 891 of this chapter (27 F.R. 10318): Secretary, Deputy Administrator, Director, Act, State Committee, County Committee, Farm, Operator and Producer.

(c) **Acreage records to be furnished.** To permit the keeping of records neces-

sary to accord history protection (in the event proportionate shares are established) to farms or farm operators utilizing reserve acreage, the processor shall furnish to the Agricultural Stabilization and Conservation Service County Office for the county in which the farm is located, the name and address of the farm operator with whom he contracts reserve acreage, the number of acres contracted and an identification of the land on which the sugarbeets are planted.

(d) **Revocation of acreage commitments.** The commitment of reserve acreage is subject to revocation in accordance with the provisions of the Act if it is found that the construction or expansion of sugarbeet processing facilities and the contracting for processing of sugarbeets has not proceeded in substantial accordance with the representations upon which such commitment of reserve acreage is based.

(e) **Commitment of acreage to farms and farm operators in Mendota, California locality and conditions of commitment—(1) Amount of commitment.** A commitment of 19,000 acres, estimated to yield about 45,700 short tons, raw value, of sugar is made to farms and farm operators in the counties of Fresno, Kings, Madera and Tulare in California for the 1963 crop for the purpose of growing sugarbeets for delivery to the Mendota factory of the Spreckels Sugar Company.

(2) **Conditions of commitment.** The commitment of acreage made pursuant to subparagraph (1) of this paragraph shall be subject to the following conditions:

(i) **Eligible farmers.** The acreage committed will be available only to farmers who have not grown sugarbeets for delivery to a processor for the extraction of sugar in any of the three crop years immediately preceding the crop year for which such commitment is made: *Provided, That* any farmer who has grown sugarbeets on small experimental acreages solely for the purpose of a determination by a processor of the feasibility of growing sugarbeets in the area shall not be considered as having grown sugarbeets in such three years.

(ii) **Limits of commitment to individual farm or operator.** The maximum commitment to any farm shall be the smaller of 100 acres or the acreage on the farm which is suitable for the production of sugarbeets in consideration of sound rotation and other cultural practices.

(iii) **Proportionate share protection to be accorded farms or growers utilizing committed acreage.** If proportionate shares are in effect in the two years immediately following the year for which an acreage is committed for a locality, the proportionate share for any farm (or operator of a farm if personal sugarbeet production history of farm operators is taken into consideration in establishing proportionate shares) in each of such two years shall not be less than the acreage committed pursuant to this section to such farm or farm operator and utilized for the production of sugarbeets for the extraction of sugar.

Statement of bases and considerations—General. Section 302(b)(3) of the Sugar Act provides as follows:

(3) In order to make available acreage for growth and expansion of the beet sugar industry, the Secretary, in addition to protecting the interest of new and small producers by regulations generally similar to those heretofore promulgated by him pursuant to this Act, shall reserve each year from the national sugarbeet acreage requirement established by him the acreage required to yield 65,000 short tons, raw value, of sugar. The acreage so reserved shall be distributed on a fair and reasonable basis, when it can be utilized, to farms without regard to any other acreage allocations to States or areas within States determined by him and shall be withheld from such other allocations until it can be so utilized: *Provided, however,* That beginning with 1966, the total acreage previously reserved and not used, plus that reserved in the current year, shall not exceed the acreage required to produce 100,000 short tons, raw value, of sugar. At the time the Secretary distributes the sugarbeet acreage reserve for any year, which determination of distribution shall be made as far in advance of such year as practicable, such distribution shall thereby be committed to be in effect for the year in which production of sugarbeets is scheduled to commence in a locality or localities determined by the Secretary to receive such reserves for such year, such determination of distribution by the Secretary shall be final, and such commitment of the sugarbeet acreage reserve shall be irrevocable upon issuance of such determination of the Secretary by publication in the FEDERAL REGISTER; except that if the Secretary finds in any case that construction of sugarbeet processing facilities and the contracting for processing of sugarbeets has not proceeded in substantial accordance with the representations made to him as a basis for his determination of distribution of the sugarbeet acreage reserve, he shall revoke such determination in accordance with and upon publication in the FEDERAL REGISTER of such findings. In determining distribution of the sugarbeet acreage reserve and whenever proposals are made to construct sugarbeet processing facilities in two or more localities where sugarbeet production is scheduled to commence in the same year, the Secretary shall base his determination and selection upon the firmness of capital commitment, suitability for growing sugarbeets, the proximity of other mills, need for a cash crop or a replacement crop, and accessibility to sugar markets, and the relative qualifications of localities under such criteria. Whenever there is no interest in constructing a new facility to commence production in a certain year, the Secretary shall give consideration to proposals, if any, to substantially expand existing factory facilities and in such event he shall base his determination of distribution of the sugarbeet acreage reserve on the aforementioned criteria and the extent of the proposed substantial expansion or expansions. If proportionate shares are in effect in the two years immediately following the year for which the sugarbeet acreage reserve is committed for any locality, the acreage of proportionate shares established for farms in such locality in each of such two years shall not be less than the smaller of the acreage committed to such farms or the acreage required to yield 50,000 short tons, raw value, of sugar based upon the yield expectancy initially considered by the Secretary in distributing the sugarbeet acreage reserve to such locality.

Section 302(b)(4) of the act provides that the allocation of the national sugarbeet acreage requirement to States for sugarbeet production, as well as the dis-

tribution of the sugarbeet acreage reserve, shall be determined by the Secretary after investigation and notice and opportunity for an informal public hearing.

Public hearing. On August 30, 1962, a Notice of Hearing was published in the FEDERAL REGISTER (27 F.R. 8682) announcing an informal public hearing relating to requests for acreage from the sugarbeet acreage reserve for the crop years 1962 through 1965. This hearing was held in the Natural History Building, Smithsonian Institution, 10th and Constitution Avenue NW., Washington, D.C., beginning at 10:00 a.m., on September 25 and continuing through September 28, 1962. Approximately 180 persons were in attendance at the beginning of the hearing. Testimony was presented at the hearing in relation to requests for acreage for one new facility to commence operations for the 1963 crop, five new facilities to begin operations for the 1964 crop, and seven new facilities to begin operations for the 1965 crop. Testimony was also presented with respect to requests for acreage from the reserve for seven sugarbeet factories wherein it was stated that substantial expansion of processing facilities had been made or will be made for future years.

The only request for acreage for a new facility to begin operations in 1963 was presented with respect to a beet sugar factory being constructed by the Spreckels Sugar Company near Mendota, California.

Determination. This determination provides for the commitment of acreage for use by farmers in the locality to be served by the new beet sugar plant near Mendota, California. The acreage (19,000) being committed represents the acreage requested by the company involved for growers having no history of sugarbeet production during the three years prior to 1963.

Since the interest of new growers to grow beets in this locality far exceeds the acreage committed, no acreage will be available hereunder to growers who have grown the crop during any of the three years immediately preceding the year for which the commitment is made. Sugarbeets grown on minor acreages solely for the purpose of experimental purposes are not considered in determining eligibility.

To permit as fair and reasonable a distribution of the limited acreage as possible and to permit a sharing of the acreages by as many growers as is economically feasible, a one hundred acre limit has been established with respect to the acreage committed to any individual grower. While it is understandable that growers generally wish to have acreages of a size that will permit the utmost efficiency, studies show that there are definite limits beyond which the benefits from large acreage cease to run.

Because some growers in the locality for which the commitment is made, as well as in a locality to the south thereof, have grown sugarbeets for many years, with the investment of thousands of dollars in equipment and other essentials

to sugarbeet production, it is expected that the processor will continue to contract, under fair terms, with such growers and not use the commitment of acreage from the reserve as a basis for discontinuing contracting with such growers. This facility is also expected to process sugarbeets grown by producers with production history. Nineteen thousand acres, estimated to produce 45,700 tons of sugar, are made available by this assignment from the reserve.

Action with respect to requests for acreage for new facilities which are to begin operations in 1964 and for expanded facilities is under active study and will be taken at a later date. Action with respect to requests for acreage for 1965 will be taken subsequent to the closing date of November 30, 1962, for filing written arguments and briefs relating thereto.

On the basis of an examination of all relevant information, the provisions of this determination are deemed to represent a fair and reasonable distribution of the 1963 acreage reserve to new facilities.

Accordingly, I hereby find and conclude that the foregoing determination will effectuate the applicable provisions of the act.

(Sec. 403, 61 Stat. 932; 7 U.S.C. Supp. 1153. Interprets or applies sec. 301, 302, 61 Stat. 929, 930, as amended; 7 U.S.C. Supp. 1131, 1132, Pub. Law 87-535 approved July 13, 1962)

Effective date: Date of publication.

Signed at Washington, D.C., on October 31, 1962.

ORVILLE L. FREEMAN,
Secretary of Agriculture.

[F.R. Doc. 62-11034; Filed, Nov. 2, 1962; 8:49 a.m.]

Chapter IX—Agricultural Marketing Service (Marketing Agreements and Orders), Department of Agriculture

PART 970—CARROTS GROWN IN SOUTH TEXAS

Limitation of Shipments

Notice of rule making with respect to a proposed limitation of shipments regulation to be made effective under Marketing Order No. 970 (7 CFR Part 970), regulating the handling of carrots grown in certain designated counties of South Texas, was published in the FEDERAL REGISTER October 23, 1962 (27 F.R. 10325). This program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). The proposed limitation of shipments was recommended by the South Texas Carrot Committee established pursuant to § 970.22.

The notice afforded interested persons an opportunity to file data, views, or arguments pertaining thereto within seven days after publication. Within the time allotted, an exception was filed by Lee Weatherby, Pecos, Texas, objecting to the minimum size requirements. In view of the fact that Mr. Weatherby's data were in direct conflict with information and the recommendations submitted by the South Texas Carrot Com-

mittee, and other available information, his exception is hereby denied.

After consideration of all relevant matters, including the proposal set forth in the aforesaid notice, it is hereby found that the regulations hereinafter set forth limiting the grade, size, quality, packs, and containers of South Texas carrots will maintain orderly marketing conditions tending to increase returns to producers of such carrots.

It is hereby further found that good cause exists for not postponing the effective date of this section until 30 days after publication in the *FEDERAL REGISTER* (5 U.S.C. 1003) in that (1) shipments of carrots grown in the production area are expected to begin on or about the effective date of this section, (2) to maximize benefits to growers, this regulation should apply to all shipments of carrots during the 1962-63 season, (3) special preparation on the part of handlers is not required because the producers and handlers have operated under the order for the past two seasons, and (4) notice has been given of the proposed Limitation of Shipments set forth in this section through publicity in the production area and by publication in the *FEDERAL REGISTER* of October 23, 1962 (27 F.R. 10325).

§ 970.303 Limitation of shipments.

During the period from November 5, 1962, through June 30, 1963, no person shall handle any lot of carrots grown in the production area unless such carrots meet the grade requirements of paragraph (a), and one of the size designations of paragraph (b), and meet the container and pack requirements of paragraphs (c) and (d), or unless such carrots are handled in accordance with provisions of paragraphs (e), (f), and (g), of this section.

(a) *Minimum grade requirements.* U.S. No. 1, or better.

(b) *Sizing requirements.*—(1) *Medium-to-large:* $\frac{3}{4}$ inch minimum diameter to $1\frac{1}{2}$ inches maximum diameter, $5\frac{1}{2}$ inches minimum length;

(2) *Jumbos:* 1 inch minimum diameter to 3 inches maximum diameter and $5\frac{1}{2}$ inches minimum length.

(c) *Container requirements.* (1) Carrots may be handled only in containers classified by weight as follows:

- (i) 1 pound;
- (ii) 2 pounds;
- (iii) 25 pounds;
- (iv) 50 pounds; and
- (v) 75-80 pounds.

(2) "Jumbos," as specified in paragraph (b) (2) of this section, may be handled only in 25-, 50-, and 75-80-pound containers.

(3) The container requirements of this paragraph shall not, but the pack requirements of paragraph (d) of this section shall, be applicable to carrots handled for export.

(d) *Pack requirements.* (1) Master containers for 1-pound or 2-pound packages shall contain the following number of packages only:

- (i) 24 1-pound packages;
- (ii) 48 1-pound packages; or
- (iii) 24 2-pound packages.

(2) (i) Average gross weight of master containers is to be computed by multi-

plying the allowable number of packages therein by their weight classification, with respective tare allowances added. Tare allowances for crates, or their equivalents in other containers, are 4 pounds for crates Nos. 4015 and 3820, and 2 pounds for crate No. 5055. Crate designations are carrier numbers.

(ii) Master containers of packages with the following weight classifications may not weigh more than their average gross weight, plus the following tolerances:

- (a) 1-pound packages, 22.5 percent.
- (b) Over 1 pound and including 2-pound packages, 15 percent.
- (c) Over 2-pound packages, 10 percent.

(iii) Containers weighing 25 pounds or more may not exceed an average of 10 percent of the net weight of contents.

(e) *Minimum quantities.* Pursuant to § 970.52 (c) (2) of this part any person subject to these regulations may handle, except for export, up to but not to exceed 100 pounds of carrots per calendar month without regard to the requirements of this section or to the inspection and assessment requirements of this part, but this exception may not apply to any portion of a shipment of over 100 pounds of carrots.

(f) *Special purpose shipments.* The requirements set forth in paragraphs (a), (b), (c), and (d) of this section, and the inspection and assessment requirements of this part, shall not be applicable to carrots handled for:

- (i) canning or freezing;
- (ii) relief or charity;
- (iii) experimental purposes; and
- (iv) livestock feed within the production area.

(g) *Safeguards.* Each handler of carrots which do not meet the requirements of paragraphs (a), (b), (c), and (d) of this section, and which are handled under paragraph (f) of this section shall, prior to handling, apply for and obtain a Certificate of Privilege from the committee. This shall require the handler to furnish reports and documents as the committee may require showing that the carrots handled were utilized for the purpose specified in the certificate. Certificates are not required on carrots for livestock feed if (i) the carrots are mutilated to make them unfit for commercial markets or (ii) the carrots are farm packed and limited in distribution to one mile or less of loading point. Certificates are not required on carrots for canning or freezing if processed within Cameron, Starr, Willacy, and Hidalgo Counties.

(h) *Inspection.* (1) No handler may handle any carrots for which inspection is required unless an appropriate inspection certificate has been issued with respect thereto and the certificate is valid at the time of shipment.

(2) No handler may transport or cause the transportation of any shipment of carrots by motor vehicle for which an inspection certificate is required unless each shipment is accompanied by a copy of the inspection certificate applicable thereto.

(3) For administration of this part each inspection certificate is valid for

only 72 hours following completion of inspection as shown on the certificate.

(i) *Definitions.* The term "U.S. No. 1" shall have the same meaning as set forth in the U.S. Standards for Topped Carrots (51.2360-51.2381 of this title) including the tolerances set forth therein with the following exceptions: (1) For packages which contain 5 pounds or less, a composite sample of 50 carrots will be scored and restricted to double the tolerances for defects and offsize, provided that not more than one carrot which is affected by soft rot will be permitted in any package, and (2) for packages of more than 5 pounds the percentages of defects and offsize shall be calculated on the basis of count. The term "loading point" means a commercial facility maintained and operated by a Registered Handler as defined in § 970.8. "Farm packed" means carrots handled by the grower on the farm where such carrots were produced. All other terms used in this section shall have the same meaning as when used in Marketing Agreement No. 142, and this part (Order No. 970).

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Dated: November 1, 1962, to become effective November 5, 1962.

PAUL A. NICHOLSON,
Deputy Director,
Fruit and Vegetable Division.

[F.R. Doc. 62-11051; Filed, Nov. 2, 1962; 8:49 a.m.]

Chapter X—Agricultural Stabilization and Conservation Service (Marketing Agreements and Orders), Department of Agriculture

[Milk Order No. 16]

PART 1016—MILK IN UPPER CHESAPEAKE BAY (MARYLAND) MARKETING AREA

Order Suspending Certain Provisions

Pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and of the order regulating the handling of milk in the Upper Chesapeake Bay marketing area (7 CFR Part 1016), it is hereby found and determined that:

(a) The following provisions of the order do not tend to effectuate the declared policy of the Act for the months of October and November 1962:

(1) The following text of the producer definition contained in § 1016.2(e):

(i) In paragraph (e) (2), the phrase "10 percent so diverted during October, November, January, or February or" and the words "during December".

(ii) In paragraph (e) (3), the phrase "10 percent during October, November, January, and February or" and the words "during December".

(b) Thirty days notice of effective date hereof are impractical, unnecessary, and contrary to the public interest in that:

(1) This suspension order does not require of persons affected substantial

or extensive preparation prior to the effective date.

(2) This suspension order is necessary to reflect current marketing conditions and to maintain orderly marketing conditions in the marketing area.

(3) This suspension will increase the percentage diversion allowance in the Upper Chesapeake Bay market in the months of October and November 1962, from 10 percent to 15 percent. Evidence on amendment of the diversion provisions for the Upper Chesapeake Bay order was received at a hearing held June 11-13, 1962. A recommended decision issued September 7, 1962, (27 F.R. 9066), gave notice that consideration was being given to amending the diversion provisions so as to allow 15 percent diversion for these and certain other months. The procedure for amending the order in this matter cannot be accomplished for the months of October and November. This suspension order is necessary to accommodate the handling of reserve milk in the market.

(4) This suspension action was requested by a handler and by representatives of about two-thirds of the producers supplying the market.

Therefore, good cause exists for making this order effective October 1, 1962.

It is therefore ordered, That the aforesaid provisions of the order are hereby suspended for the period of October 1, 1962, through November 30, 1962.

(Secs. 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674)

Effective date: October 1, 1962.

Signed at Washington, D.C., on October 31, 1962.

CHARLES S. MURPHY,
Under Secretary.

[F.R. Doc. 62-11035; Filed, Nov. 2, 1962; 8:49 a.m.]

Title 10—ATOMIC ENERGY

Chapter I—Atomic Energy Commission

PART 112—DOMINIC NUCLEAR TEST SERIES, 1962

Johnston Island Zone

On November 1, 1962 Joint Task Force-8 issued public notice of a reduction in the size of the danger area surrounding Johnston Island. The prohibitions of § 112.4 with respect to a portion of the Johnston Island danger area as defined in § 112.3(a)(3) are no longer necessary, and the following amendment to Part 112 is issued to effect their termination.

Inasmuch as this action is intended to relieve from, rather than to impose restrictions under regulations currently in effect, the Atomic Energy Commission has found that general notice of proposed rule-making and public procedures thereon are unnecessary and that good cause exists why this amendment should be made effective without the customary period of notice.

Pursuant to the Administrative Procedure Act, Public Law 404, 79th Con-

gress, 2d Session, the following amendment is published as a document subject to codification, to be effective 10:00 a.m., November 1, 1962, Honolulu Standard Time:

Section 112.3(a)(3) is deleted and the following new § 112.3(a)(3) is added:

(3) That area established, effective November 1, 1962, until a date to be announced, consisting of a zone encompassing Johnston Island and which is a circle of 320 nautical miles radius at the surface gradually extending to a circle of 430 nautical miles radius at an altitude of 10,000 feet, then gradually extending to a circle of 470 nautical miles radius at an altitude of 20,000 feet, then gradually extending to a circle of 505 nautical miles radius at an altitude of 30,000 feet, then gradually extending to a circle of 535 nautical miles radius at an altitude of 40,000 feet and above, centered at the following geographic coordinates:

16°45' N., and 169°31' W.

(Secs. 161p., 72 Stat. 337; 42 U.S.C. 2201(p). Interpret or apply secs. 2, 3, 91, 68 Stat. 921, as amended, 922, 936; 42 U.S.C. 2012, 2013, 2121)

Dated at Germantown, Md., this 1st day of November 1962.

For the Atomic Energy Commission.

A. R. LUEDECKE,
General Manager.

[F.R. Doc. 62-11070; Filed, Nov. 2, 1962; 8:49 a.m.]

PART 1—STATEMENT OF ORGANIZATION, DELEGATIONS, AND GENERAL INFORMATION

Miscellaneous Amendments

Notice is hereby given of the amendment of the Statement of Organization, Delegations, and General Information of the United States Atomic Energy Commission, 10 CFR Part 1, published in the FEDERAL REGISTER on December 29, 1961 (26 F.R. 12729-12745), as amended.

The present amendments revise the previously published Statement to reflect changes which have occurred in the organization and to make other changes. The amendments are concerned specifically with establishment of a Nevada Operations Office, a Division of Nuclear Education and training, and a Division of Plans and Reports; transfer of the Albuquerque and San Francisco Operations Offices from the supervision of the Division of Military Application to the direct supervision of the General Manager; definition of authority exercised by the Division of Production and the Oak Ridge and Hanford Operations Offices in the execution of the statutory functions of the Commission under the Atomic Energy Community Act of 1955; definition of authority of the Manager, Oak Ridge Operations Office, for leasing of special nuclear material; definition of responsibility of the Division of Biology and Medicine for conduct of fallout studies and deletion of its authority to approve educational grants pursuant to section

31b of the Atomic Energy Act; clarification of responsibilities for health and safety at Idaho Operations Office; and correction of a reference in § 1.255.

Pursuant to the Administrative Procedure Act, 1 CFR 13.2, and the Atomic Energy Act of 1954, as amended, the following amendments of Part 1 of the Commission's regulations are published as a document subject to codification, effective upon publication in the FEDERAL REGISTER.

§ 1.6 [Amendment]

1. Paragraph (b) of § 1.6 *Location of principal offices*, is amended by the addition of:

(13) Nevada Operations Office, P.O. Box 1676, Las Vegas, Nevada.

§ 1.43 [Amendment]

2. Paragraph (a) of § 1.43 *Division of Military Application*, is amended by deletion of subparagraph (2) and redesignation of subparagraph (3) as subparagraph (2). As amended, paragraph (a) reads:

(a) The Division of Military Application is established by the Act. The Division of Military Application (1) directs the research, development, production, custody, storage, readiness assurance and testing of atomic weapons; and (2) assists in maintaining liaison between the Atomic Energy Commission and the Department of Defense.

§ 1.50 [Amendment]

3. Paragraph (a) of § 1.50 *Office of the Assistant General Manager for Plans and Production*, is amended by changing the word "Plans" to read "Plans and Reports." As amended paragraph (a) reads:

(a) The Assistant General Manager for Plans and Production directs and coordinates the programs of the Divisions of Production, Raw Materials, Plans and Reports, Peaceful Nuclear Explosives, and Operations Analysis and Forecasting.

§ 1.51 [Amendment]

4. Paragraph (b) of § 1.51 *Division of Production*, is redesignated as paragraph (c) and addition of the following new paragraph (b):

(b) The Division of Production also executes, subject to the provisions of Part 130 of this chapter, the statutory functions assigned to the AEC under the Atomic Energy Community Act of 1955, as amended, including determinations of the amounts of annual assistance payments to be made pursuant to Chapter 9 of said Act.

5. Section 1.53 is revised to read as follows:

§ 1.53 Division of Plans and Reports.

The Division of Plans and Reports (a) recommends systems to increase effectiveness of program planning, project control and reporting; (b) assists in preparation of long-range plans; (c) prepares consolidated plans, planning reports, project and program progress reports for AEC management and others;

(d) provides advice and assistance to field offices and Headquarters in the use of project control and planning systems; and (e) analyzes and reports project control data.

§ 1.60 [Amendment]

6. Paragraph (b) of § 1.60 *Office of the Assistant General Manager for Research and Development*, is amended by the addition of the words "Nuclear Education and Training" and deletion of the subparagraph numbers. As amended paragraph (b) reads:

(b) Develops policies, standards, and procedures and provides AEC-wide services relating to the functions and responsibilities assigned to the Divisions of Reactor Development, Research, Biology and Medicine, Isotopes Development, and Nuclear Education and Training.

§ 1.62 [Amendment]

7. Section 1.62 *Division of Biology and Medicine*, is amended by the revision and redesignation of paragraph (d) as paragraph (e) and the addition of a new paragraph (d); as amended paragraphs (d) and (e) read as follows:

(d). The Division of Biology and Medicine administers an AEC-wide program of fallout studies which includes the measurement of radioactive byproducts, their concentrations, redistribution, and mechanisms of translocation in the atmosphere, soils, fresh waters, oceans, and the biosphere proper.

(e) The Director, Division of Biology and Medicine, is authorized and directed to:

(1) Enter into, extend, modify, and terminate agreements with other governmental agencies: *Provided*, That the following actions shall be submitted for approval of the Assistant General Manager for Research and Development or of higher authority, as required:

(i) Any individual agreement or extension, modification, or termination of an agreement involving more than \$1,000,000;

(ii) Any new or unusual type of transaction, which, in the judgment of the Director, may be of interest to the General Manager or the Commission.

(2) represent the AEC in all matters relating to agreements made under his authority or assigned to him for administration.

§ 1.64 [Amendment]

8. Section 1.64 *Division of Isotopes Development*, is amended by deletion of paragraph (a) (4). As amended, § 1.64 (a) reads as follows:

(a) The Division of Isotopes Development develops and directs programs for (1) accelerating the development of widespread applications of radioisotopes and high-intensity radiation; (2) radioisotope production, process development, pricing and marketing; and (3) encouraging private production and distribution of isotopes.

9. A new § 1.65 is added as follows:

§ 1.65 *Division of Nuclear Education and Training*.

(a) The Division of Nuclear Education and Training develops and adminis-

ters nuclear education and training programs in nuclear science and engineering; the use of isotopes in the physical and engineering sciences; radiation biology and the life sciences; health physics; industrial medicine and industrial hygiene.

(b) The Director, Division of Nuclear Education and Training, is authorized and directed to:

(1) Enter into, extend, modify and terminate agreements with other governmental agencies; and approve educational grants pursuant to section 31b. of the Act: *Provided*, That the following actions shall be submitted for approval of the Assistant General Manager for Research and Development or of higher authority as required:

(i) Any individual agreement or extension, modification, or termination of an agreement, or grant, involving more than \$250,000;

(ii) Any new or unusual type of transaction, which, in the judgment of the Director, may be of interest to the General Manager or the Commission.

(2) Represent the AEC in all matters relating to agreements and grants made under his authority or assigned to him for administration.

§ 1.201 [Amendment]

10. Paragraph (d) of § 1.201 *Idaho Operations Office*, is revised to read as follows:

(d) Within the scope of his functions the Manager, Idaho Operations Office, is responsible for assuring that adequate provision is made for the health and safety of government and contractor personnel, and of the general public, and for further assuring that these functions are executed in a manner that protects government and contractor personnel and the general public against atomic energy induced radiation and all other health and safety hazards arising from the performance of these functions. As a part of this responsibility, the Manager, Idaho Operations Office, has full responsibility for over-all site environment safety outside of the confines of the individual reactor locations. With respect to the over-all site environment, he is authorized and directed to keep currently informed respecting the safety characteristics of all reactors operating at National Reactor Testing Station (NRTS) and take such action as may be appropriate including the curtailment of operation of any NRTS facility except the Naval Reactor Facility when, in his opinion, such operation may jeopardize the health and safety of other personnel and/or the general public. In the event of reactor incident or other accident on the site, the Manager, Idaho Operations Office, is in complete control of all activities operating at the NRTS except those of the Naval Reactor Facility. He shall coordinate the development of emergency plans of Managers of field offices using the NRTS facility.

§ 1.202 [Amendment]

11. Paragraphs (a) and (c) of § 1.202 *Oak Ridge Operations Office*, are revised to read as follows:

(a) The Oak Ridge Operations Office, under the direction of a Manager of Op-

erations responsible to the General Manager, is responsible (1) for the production of special nuclear materials including the preparation of feed materials; (2) for the supervision of related process development, engineering and construction programs; (3) for the execution of certain statutory functions of the AEC under the Atomic Energy Community Act of 1955, as amended, with respect to properties and activities at Oak Ridge; and (4) for the supervision of Paducah, Portsmouth, St. Louis, Cincinnati, New Brunswick, and Puerto Rico Area Offices.

(c) The Manager, Oak Ridge Operations Office, is authorized and directed to (1) exercise contract authority as described in § 1.5(c); and (2) execute and administer lease agreements for special nuclear materials distributed pursuant to section 53 of the Act (except material distributed as standards by the Bureau of Standards).

§ 1.204 [Amendment]

12. Paragraph (a) of § 1.204 *Hanford Operations Office*, is revised to read as follows:

(a) The Hanford Operations Office, under the direction of a Manager of Operations responsible to the General Manager, is responsible (1) for the production of special nuclear materials; (2) for the supervision of related process development, engineering and construction programs; and (3) for the execution of certain statutory functions of the AEC under the Atomic Energy Community Act of 1955, as amended, with respect to properties and activities at Richland, Washington.

13. Subpart C is amended by the addition of the following new §§ 1.206, 1.207, and 1.208:

§ 1.206 Albuquerque Operations Office.

(a) The Albuquerque Operations Office, under the direction of a Manager of Operations responsible to the General Manager, is responsible for (1) research, development, production, custody, storage, and readiness assurance, in the field of atomic weapons; (2) supervising facilities for these purposes; (3) supervising engineering and construction programs; and (4) supervising the Rocky Flats, San Antonio, Burlington, Dayton, Kansas City, Pinellas, South Albuquerque, Los Alamos, and Sandia Area Offices.

(b) The Albuquerque Operations Office performs the functions associated with administration of contracts for research and development programs at the Los Alamos Laboratory under the immediate programmatic direction of designated Headquarters divisions, and conducts other research and development and training programs in assigned fields.

(c) The Manager, Albuquerque Operations Office, is authorized and directed by the General Manager to exercise contract authority as described in § 1.5(c).

(d) The Manager, Albuquerque Operations Office, administers AEC access permits in Arizona, Kansas, New Mexico, Oklahoma, and Texas.

(e) The Manager, Albuquerque Operations Office, supervises performance of functions relative to management of the community at Los Alamos, New Mexico, including, but not limited to, the following specific programs: (1) Establishment and development of a community at White Rock, 26 F.R. 1070 (1961); (2) establishment of a residential area to be known as Barranca Mesa Subdivision No. 1, 23 F.R. 5550 (1958); (3) establishment of a residential area to be known as Barranca Mesa Subdivision No. 2, 26 F.R. 8323 (1961); and (4) leasing of Government-owned lands and buildings for commercial purposes.

(f) Within the scope of his functions, the Manager, Albuquerque Operations Office, is responsible for assuring that adequate provision is made for the health and safety of government and contractor personnel, and of the general public, and for further assuring that these functions are executed in a manner that protects government and contractor personnel and the general public against atomic energy induced radiation and all other health and safety hazards arising from the performance of these functions.

§ 1.207 San Francisco Operations Office.

(a) The San Francisco Operations Office, under the direction of a Manager of Operations responsible to the General Manager, (1) is responsible for research and development of nuclear weapons, reactor technology, peaceful application of nuclear explosives; (2) performs the administrative functions associated with administration of contracts for research and development at the Lawrence Radiation Laboratory under the immediate programmatic direction of designated Headquarters divisions, and conducts other research and development in assigned fields; (3) supervises facilities for these and other programs at Livermore, Berkeley, Palo Alto, California, and such other locations as may be designated; and (4) administers related engineering, construction and maintenance programs.

(b) The Manager, San Francisco Operations Office, is authorized and directed by the General Manager to exercise the contract authority described in § 1.5(c).

(c) The Manager, San Francisco Operations Office, administers AEC access permits in California, Hawaii, Nevada, and U.S. Pacific Territories.

(d) Within the scope of his functions, the Manager, San Francisco Operations Office, is responsible for assuring that adequate provision is made for the health and safety of government and contractor personnel and of the general public, and for further assuring that these functions are executed in a manner that protects government and contractor personnel and the general public against atomic energy induced radiation and all other health and safety hazards arising from the performance of these functions.

§ 1.208 Nevada Operations Office.

(a) The Nevada Operations Office, under the direction of a Manager of Operations, responsible to the General Manager, (1) manages the Nevada Test Site (NTS) and other experimental nuclear explosive test sites within and out-

side the continental United States, where development projects administered by AEC and other agencies may be carried out; (2) provides support services to the various users of NTS as agreed with the individual users; and (3) coordinates the planning and execution of weapons and other nuclear explosive tests both within and outside the continental U.S. and develops equipment and processes to assure safe and effective operations.

(b) The Manager, Nevada Operations Office, is authorized and directed by the General Manager to (1) exercise contract authority as described in § 1.5(c); and (2) in accordance with provisions of section 167 of the Atomic Energy Act of 1954, as amended, consider, ascertain, adjust, determine, settle, and pay any claim for money damage of \$5,000 or less against the United States for bodily injury, death, or damage to or loss of real or personal property resulting from any detonation of any explosive device where such claim is presented to the Commission in writing within one year after the accident or incident out of which the claim arises: *Provided, however, That the damage to or loss of property or bodily injury or death, shall not have been caused in whole or in part by any negligence or wrongful act of the claimant, his agents or employees.* If the Manager considers that a claim in excess of \$5,000 is meritorious and would otherwise be covered by section 167, he shall report the facts and circumstances thereof to the General Manager.

(c) Within the scope of his functions, the Manager, Nevada Operations Office, is responsible for providing for over-all environmental safety outside the confines of reactor locations and keeping currently informed of the safety characteristics of all programs, projects or operations at NTS and other assigned test sites and facilities; assuring that all assigned functions are executed in a manner that protects government and contractor personnel and the general public against radiation and all other health and safety hazards; coordinating the development of emergency plans for action in event of accident, incident, or other emergency situation at any assigned facility; assuming complete control of all NTS activities, including reactor projects, in the event of an emergency of site-wide impact (In the case of the Nuclear Rocket Development Station (NRDS), these responsibilities are limited to protection of persons off the NRDS and to accidents, incidents, or other emergency situations within NRDS which have or might have impact off the NRDS); and curtailing operation of any program, project, or operation when in his opinion the health and safety of employees, outside the site on which the particular program, project, or operations is being conducted, or the general public is jeopardized.

§§ 1.227, 1.228 [Deletion]

14. Subpart C is further amended by the deletion of the unnumbered center title "Offices Reporting to the Division of Military Application" and of §§ 1.227 and 1.228.

§ 1.255 [Amendment]

15. In § 1.255 *Patent Program*, the following correction is made: The reference to "Parts 80, 81, and 82" should read "Parts 80, 81, and 83."

(Sec. 161, 68 Stat. 948; 42 U.S.C. 2201)

Dated at Germantown, Md., this 27th day of October 1962.

For the Atomic Energy Commission,

WOODFORD B. MCCOOL,
Secretary

[F.R. Doc. 62-10996; Filed, Nov. 2, 1962; 8:45 a.m.]

Title 14—AERONAUTICS AND SPACE

Chapter I—Federal Aviation Agency

[Reg. Docket No. 774; Amdt. 620-1]

PART 620—SECURITY CONTROL OF AIR TRAFFIC

Puerto Rico Coastal ADIZ

Part 620 of the regulations of the Administrator contains the rules which have been found necessary in the interest of national security to identify, locate, and control civil aircraft operated within areas designated as Air Defense Identification Zones (ADIZ). There are eight such zones presently established in areas outside the continental United States. Pilots of civil aircraft operating into or within these zones are subject to certain requirements for the filing of flight plans and position reports.

The Department of Defense has advised, and I have determined, that the interests of national defense require the establishment of a Coastal ADIZ within 150 nautical miles of San Juan, Puerto Rico, excluding the land and territorial waters of the Dominican Republic and of the Islands of Puerto Rico, Vieques, Saint Croix, Saint Thomas, Tortola, Virgin Gorda, and Anegada.

I have determined that a situation exists which requires the immediate designation of this ADIZ for the security of the United States and for the safety of air commerce. Accordingly, I find that notice and public procedure hereon are impracticable and that good cause exists for making this amendment effective on less than 30 days notice.

In consideration of the foregoing, Part 620 of the regulations of the Administrator is hereby amended as follows:

By adding a new § 620.22(f) to read as follows:

(f) Puerto Rico Coastal ADIZ.

The area bounded by a circle with a radius of 150 nautical miles centered at latitude 18°28'18" N., longitude 66°24'46" W. (San Juan Radio Beacon), excluding the airspace over the land and territorial waters of the Dominican Republic and of the Islands of Puerto Rico, Vieques, Saint Croix, Saint Thomas, Tortola, Virgin Gorda, and Anegada.

This amendment shall become effective at 0001 e.s.t. (0501Z) on November 3, 1962.

(Secs. 307, 1110, 1202 of the Federal Aviation Act of 1958, 72 Stat. 749, 800, 49 U.S.C. 1348, 1510, 1522, Executive Order 10854)

Issued in Washington, D.C., on November 1, 1962.

HAROLD W. GRANT,
Acting Administrator.

[F.R. Doc. 62-11075; Filed, Nov. 2, 1962;
9:49 a.m.]

Chapter III—Federal Aviation Agency

SUBCHAPTER C—AIRCRAFT REGULATIONS

[Reg. Docket No. 1461; Amdt. 502]

PART 507—AIRWORTHINESS DIRECTIVES

Douglas DC-8 Series Aircraft

Amendment 462, 27 F.R. 6606 (AD 62-16-2), requires daily inspection of the wing flap crank cylinder barrel on Douglas DC-8 Series aircraft. It has now been determined that if certain inspections and modifications are accomplished, the daily inspections may be discontinued. Accordingly, Amendment 462 is being amended to provide for the alternative means of compliance.

Since this amendment relaxes a requirement and imposes no additional burden on any person, notice and public procedure hereon are unnecessary and the amendment may be made effective upon publication in the **FEDERAL REGISTER**.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (25 F.R. 6489), § 507.10(a) of Part 507 (14 CFR Part 507), is hereby amended as follows:

Amendment 462, 27 F.R. 6606, Douglas DC-8 Series aircraft, is amended by:

1. Adding the following to paragraph (b) (1): "or, install a new flap position quadrant, flap-detent locating nameplate and flap position placard in accordance with Figure (2) of Douglas DC-8 Service Bulletin No. 27-134 or FAA approved equivalent."

2. Adding the following to paragraph (b) (2): "or rig the flap in accordance with (d) (3)."

3. Adding the following paragraph (d) to read:

(d) The daily or preflight inspections required in (a), (b), and (c) may be discontinued if the following is accomplished:

(1) Conduct initial inspection of both outboard barrel assemblies, P/N 3643686-1, in accordance with steps (1) through (4) of Figure (1) in DC-8 Service Bulletin No. 27-134. Barrels meeting the inspection requirements specified therein, may be continued in service. After this initial inspection, periodically reinspect barrels for cracks in accordance with step (1), mentioned above, at intervals not to exceed 2,500 hours' time in service thereafter. Barrels showing evidence of cracks shall be replaced prior to further flight.

(2) Accomplish rework outlined in paragraph (b) (1).

(3) Adjust all flap actuating cylinders and rig the flaps to the pertinent dimensions, flap travel limits and flap travel times specified in paragraph 2, Accomplishment Instructions, Kit C or D, paragraph E of Douglas DC-8 Service Bulletin No. 27-134, or an FAA approved equivalent.

4. Adding the following paragraph (e) to read:

(e) The magnetic inspection, step (1), specified in (d) (1), may be discontinued:

(1) After the fourth such inspection if the barrels, P/N 3643686-1, meet the inspection requirements of (d) (1), are shot peened in accordance with Figure (1) of Douglas DC-8 Service Bulletin No. 27-134, reidentified as P/N 3643686-501, and further identified with a color code or FAA approved equivalent; or

(2) Upon installation of new shot peened barrels, P/Ns 3643686-501 or 3774061-501.

5. Adding the following paragraph (f) to read:

(f) Upon request of the operator an FAA maintenance inspector, subject to prior approval of the Chief, Engineering and Manufacturing Branch, FAA Western Region, may adjust the repetitive inspection intervals specified in this Airworthiness Directive to permit compliance at an established inspection period of the operator if the request contains substantiating data to justify the increase for such operator.

6. Adding the following parenthetical reference statement to read:

(Douglas DC-8 Service Bulletin No. 27-134 dated July 20, 1962, covers this same subject.)

This amendment shall become effective November 3, 1962.

(Sec. 313(a), 601, 603; 72 Stat. 752, 775, 776; 49 U.S.C. 1354(a), 1421, 1423)

Issued in Washington, D.C., on Oct. 29, 1962.

G. S. MOORE,
Acting Director,
Flight Standards Service.

[F.R. Doc. 62-10998; Filed, Nov. 2, 1962;
8:45 a.m.]

[Reg. Docket No. 1296; Amdt. 503]

PART 507—AIRWORTHINESS DIRECTIVES

Mareco Model 15-1 Safety Belts

A proposal to amend Part 507 of the regulations of the Administrator to include an airworthiness directive requiring replacement or modification of Mareco Model 15-1 safety belt assemblies was published in 27 F.R. 6941.

Interested persons have been afforded an opportunity to participate in the making of the amendment. One comment was received from an operator who had already modified his belts and identified them with a marking different from that specified in the proposal. Since such belts are acceptable, the AD is so reworded.

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator (25 F.R. 6489), § 507.10(a) of Part 507 (14 CFR Part 507), is hereby amended by adding the following new airworthiness directive.

MARECO SAFETY BELTS. Applies to all aircraft equipped with Mareco Model 15-1 safety belts which are identified on the manufacturer's identification label on the safety belt as being manufactured in the third and fourth quarters of 1959 and the first and second quarters of 1960. Compliance required within the next 100 hours' time in service after the effective date of this AD.

Service difficulties with the Mareco Model 15-1 safety belt assemblies have occurred wherein the buckle locking cam became disengaged when tension on the belt assembly was relieved and would not re-engage upon application of tension to the belt assembly due to the cam spring slipping from its retention slot. Therefore, the following is required:

Replace Mareco Model 15-1 safety belts manufactured in the third and fourth quarters of 1959 and the first and second quarters of 1960, or modify with an FAA approved modification to prevent the slipping of the cam spring from its retaining end slot and to correct the misalignment between the cam and buckle frame. When an FAA approved modification is made after the effective date of this AD, the buckle frame or cam lever shall be permanently marked "MOD." followed by the date of modification.

NOTE: Belts which were modified prior to the effective date of this AD in accordance with an FAA approved modification and identified with an embossed "X" are acceptable.

This amendment shall become effective December 4, 1962.

(Secs. 313(a), 601, 603; 72 Stat. 752, 775, 776; 49 U.S.C. 1354(a), 1421, 1423)

Issued in Washington, D.C., on October 29, 1962.

G. S. MOORE,
Acting Director,
Flight Standards Service.

[F.R. Doc. 62-10999; Filed, Nov. 2, 1962;
8:45 a.m.]

Title 16—COMMERCIAL PRACTICES

Chapter I—Federal Trade Commission

[Docket C-254]

PART 13—PROHIBITED TRADE PRACTICES

Morse Sewing Machine & Supply Corp. et al.

Subpart—Advertising falsely or misleadingly: § 13.70 *Fictitious or misleading guarantees*; § 13.155 *Prices*; § 13.155-10 *Bait*; § 13.157 *Prize contests*.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46. Interpret or apply sec 5, 38 Stat. 719, as amended; 15 U.S.C. 45) [Cease and desist order, Morse Sewing Machine & Supply Corp. et al., New York 1, N.Y., Docket C-254, Oct. 17, 1962]

In the Matter of Morse Sewing Machine & Supply Corp., Morse Electro Products Corp., Morse Distributing Corp., Corporations, and Philip S. Morse, and Edward I. Rabin, Individually and as Officers of Said Corporations

Consent order requiring two individuals in New York City and the three associated corporations they directed—including (1) an importer of sewing machine heads and replacement parts from Japan which were assembled into complete sewing machine units with domestically purchased cabinets, motors, controls, and electrical units; (2) its affiliate holding the capital stock and supervising the activities of seven retail subsidiaries; and (3) a corporation handling advertising and printing for all the

corporations—to cease using bait advertising to obtain leads to prospects; representing falsely that they were conducting contests, winners of which would receive prizes or gift certificates, actually worthless; and that certain of their machines were “Guaranteed for a Lifetime” or had a “5-year written guarantee”.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

It is ordered, That respondents Morse Sewing Machine & Supply Corp., Morse Electro Products Corp., Morse Distributing Corp., corporations and their officers, and Philip S. Morse and Edward I. Rabin, individually and as officers of said corporations, and respondents’ agents, representatives, and employees, directly or through any corporate or other device, in connection with the offering for sale, sale and distribution of sewing machines or other products in commerce, as “commerce” is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing directly or by implication:

1. That said merchandise is offered for sale when such offer is not a bona fide offer to sell the merchandise so offered.

2. That respondents are conducting a “contest” in which the winners will receive prizes or gift certificates unless respondents are in fact conducting a bona fide “contest” in which the winners will receive prizes or gift certificates of actual value.

3. That certificates or other articles awarded the winners of a contest conducted by respondents are of a certain value or worth unless such certificates or other articles are in fact of the represented value or worth.

4. That any article of merchandise is guaranteed unless the nature and extent of the guarantee and the manner in which the guarantor will perform are clearly and conspicuously disclosed.

It is further ordered, That the respondents herein shall, within sixty (60) days after service upon them of this order, file with the Commission a report in writing setting forth in detail the manner and form in which they have complied with this order.

Issued: October 17, 1962.

By the Commission.

[SEAL] JOSEPH W. SHEA,
Secretary.

[F.R. Doc. 62-11018; Filed, Nov., 2, 1962;
8:47 a.m.]

Title 29—LABOR

Chapter V—Wage and Hour Division, Department of Labor

SUBCHAPTER A—REGULATIONS

PART 672—CONSTRUCTION, BUSINESS SERVICE, MOTION PICTURE, AND MISCELLANEOUS INDUSTRY IN PUERTO RICO

Pursuant to section 5 of the Fair Labor Standards Act of 1938, as amended (29

U.S.C. 205), and by means of Administrative Order No. 565 (27 F.R. 8213), the Secretary of Labor appointed and convened Industry Committee No. 55-B. Administrative Order No. 565 referred to Industry Committee No. 55-B the question of the minimum wage rate or rates to be paid under section 6(c) of the Act to employees in the construction, business service, motion picture, and miscellaneous industry in Puerto Rico, as defined in that order, and gave due notice of the hearing of the Committee, as provided in 29 CFR 511.2.

Excluded from the matters referred to Industry Committee No. 55-B were the activities described in 29 CFR 672.2 (a), (c), and (f). The minimum rates for these activities equal the rates prescribed in sec. 6(a)(1) or 6(b)(1) of the Act. The activities described in 29 CFR 672.2 (e) were also excluded from the matters referred to the Committee because the activities of gasoline service stations will be moved to the wholesaling, warehousing, and other distribution industry in Puerto Rico (29 CFR Part 683).

Subsequent to an investigation and a hearing conducted pursuant to the notice, the Committee filed with the Administrator a report containing its findings of fact and recommendations with respect to the matters referred to it.

Accordingly, as authorized and required by section 8 of the Fair Labor Standards Act of 1938 (29 U.S.C. 208), Reorganization Plan No. 6 of 1950 (3 CFR 1949-53 Comp., p. 1004), and General Order No. 45-A of the Secretary of Labor (15 F.R. 3290), the recommendations of Industry Committee No. 55-B are hereinafter published in this revision of 29 CFR Part 672.

Effective November 19, 1962, 29 CFR Part 672 is hereby revised to read as follows:

Sec.

672.1 Definition

672.2 Wage Rates

672.3 Notices

AUTHORITY: §§ 672.1 to 672.3 issued under sec. 8, 52 Stat. 1064, as amended; 29 U.S.C. 208. Interpret or apply secs. 5, 6, 52 Stat. 1062, as amended; 29 U.S.C. 205, 206.

§ 672.1 Definition.

The construction, business service, motion picture, and miscellaneous industry in Puerto Rico is defined as follows: The design, construction, reconstruction, alteration, repair, and maintenance of buildings, structures, and other improvements; the assembling at the construction site and the installation of machinery and other facilities in or upon buildings, structures, and other improvements; the dismantling, wrecking, or other demolition of buildings, structures, and other improvements; the activity carried on by any business or nonprofit enterprise performing real estate, professional, advertising, education, or research activities, or engaged in the furnishing of other facilities or services to industrial or commercial establishments or to the consumer; and the production of photographs and blueprints, the production and distribution of motion pictures and all activities incidental thereto; and all activities which are not included in the definitions of other in-

dustries in Puerto Rico for which wage orders have been issued: *Provided, however,* That the industry shall not include any activity carried on by an establishment primarily engaged in another industry in Puerto Rico for its own use.

§ 672.2 Wage rates.

The Construction, Business Service, Motion Picture and Miscellaneous Industry in Puerto Rico is divided into separate classifications. Wages at rates not less than those prescribed below shall be paid under section 6(c) of the Fair Labor Standards Act of 1938 by every employer to each of his employees in each of the classifications in the industry who in any workweek is engaged in commerce or in the production of goods for commerce or is employed in an enterprise engaged in commerce or in the production of goods for commerce. Such classifications and minimum rates shall be:

(a) (1) *General classification*—\$1.15 an hour.

(2) This classification shall be defined as all activities in the industry except those covered by section 6 of the Fair Labor Standards Act only by reason of the Fair Labor Standards Amendments of 1961.

(b) (1) *General new-coverage classification*—\$1.00 an hour.

(2) This classification shall be defined as all activities in the industry covered by section 6 of the Fair Labor Standards Act only by reason of the Fair Labor Standards Amendments of 1961.

§ 672.3 Notices.

Every employer subject to the provisions of § 672.2 shall post in a conspicuous place in each department of his establishment where employees subject to the provisions of § 672.2 are working such notices of this part as shall be prescribed from time to time by the Administrator of the Wage and Hour and Public Contracts Divisions of the United States Department of Labor and shall give such other notice as the Administrator may prescribe.

Signed at Washington, D.C., this 30th day of October 1962.

CLARENCE T. LUNDQUIST,
Administrator.

[F.R. Doc. 62-11032; Filed, Nov. 2, 1962;
8:49 a.m.]

Title 36—PARKS, FORESTS, AND MEMORIALS

Chapter I—National Park Service, Department of the Interior

PART 7—SPECIAL REGULATIONS RELATING TO PARKS AND MONUMENTS

Sequoia and Kings Canyon National Parks, California; Dogs and Cats

On page 8975 of the FEDERAL REGISTER of September 11, 1962, there was published a notice and text of a proposed amendment to § 7.8 of Title 36, Code of Federal Regulations. The purpose of

this amendment is to establish regulations governing the presence of dogs and cats in certain portions of Sequoia and Kings Canyon National Parks to provide protection to and avoid harassment of wildlife and pack and saddle stock.

Interested persons were given 30 days within which to submit written comments, suggestions or objections with respect to the proposed amendment. Consideration having been given to all relevant matters presented, it has been determined that the amendment should be and is hereby adopted without change and is set forth below. This amendment shall become effective at the beginning of the 30th calendar day following the date of this publication in the FEDERAL REGISTER.

Section 7.8 is amended by addition of new paragraph (f) to read as follows:

§ 7.8 Sequoia and Kings Canyon National Parks.

* * * * *

(f) *Dogs and cats.* Dogs and cats are prohibited on any park land or trail, except the immediate developed areas

which are accessible by a designated public automobile road.

(60 Stat. 238; 5 U.S.C. 1003; 39 Stat. 535; 16 U.S.C. 3)

CHAS. F. HILL,
*Acting Superintendent, Sequoia
and Kings Canyon National Parks.*

[F.R. Doc. 62-11020; Filed, Nov. 2, 1962;
8:48 a.m.]

Title 33—NAVIGATION AND NAVIGABLE WATERS

Chapter II—Corps of Engineers, Department of the Army

PART 203—BRIDGE REGULATIONS

Blackburn Bay, Fla.

Pursuant to the provisions of section 5 of the River and Harbor Act of August 18, 1894 (28 Stat. 362; 33 U.S.C. 499), § 203.462a is hereby prescribed to govern the operation of a highway bridge across Blackburn Bay, near Nokomis, Florida, effective 30 days after publication in the FEDERAL REGISTER, as follows:

§ 203.462a Blackburn Bay, Fla.; highway bridge near Albee Road, Nokomis.

(a) The bridge will be opened at any time between the hours of 5:00 a.m. and 6:00 a.m. for the passage of commercial fishermen.

(b) The bridge owners will not be required to open the bridge between the hours of 6:00 a.m. and 7:00 p.m. except that the bridge shall be opened at 7:00 a.m., 10:00 a.m., 1:00 p.m., 4:00 p.m., and 7:00 p.m. for the passage of all accumulated vessels.

(c) During the existence of a hurricane alert for the Florida west coast area the bridge owners will open the bridge upon request at all times during the alert.

(d) Between the hours of 7:00 p.m. and 7:00 a.m. the bridge owners will provide for the opening of the bridge for Government-owned or operated vessels upon 4 hours' advance notice.

[Regs., October 19, 1962, 285/111 (Blackburn Bay, Fla.)—ENG CW—ON] (Sec. 5, 28 Stat. 362; 33 U.S.C. 499)

J. C. LAMBERT,
*Major General, U.S. Army,
The Adjutant General.*

[F.R. Doc. 62-10995; Filed, Nov. 2, 1962;
8:45 a.m.]

Proposed Rule Making

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Part 198]

PRODUCTION OF VOLATILE FRUIT-FLAVOR CONCENTRATES

Notice of Proposed Rule Making

Notice is hereby given, pursuant to the Administrative Procedure Act, approved June 11, 1946, that the regulations set forth in tentative form below are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury or his delegate. Prior to the final adoption of such regulations, consideration will be given to any comments or suggestions pertaining thereto which are submitted in writing, in duplicate, to the Director, Alcohol and Tobacco Tax Division, Internal Revenue Service, Washington 25, D.C., within a period of 30 days from the date of publication of this notice in the FEDERAL REGISTER. Any person submitting written comments or suggestions who desires an opportunity to comment orally at a public hearing on these proposed regulations should submit his request, in writing, to the Director, Alcohol and Tobacco Tax Division, within the 30-day period. In such case, a public hearing will be held, and notice of the time, place, and date will be published in a subsequent issue of the FEDERAL REGISTER. The proposed regulations are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

[SEAL] BERTRAND M. HARDING,
Acting Commissioner
of Internal Revenue.

In order to provide simplified requirements for qualification, construction, and operation of volatile fruit-flavor concentrate plants under the provisions of chapter 51 of the Internal Revenue Code, to modernize the regulations, and to make other changes, the regulations in Part 198 of Title 26 of the Code of Federal Regulations are reissued as follows:

Preamble. 1. The regulations in this part shall supersede the 1955 edition of Part 198, Production of Volatile Fruit-Flavor Concentrate (26 CFR Part 198; 20 F.R. 1569) as amended by Treasury Decisions 6225 (22 F.R. 979) and 6386 (24 F.R. 4789).

2. These regulations shall not affect any act done or any liability or right accruing or accrued, or any suit or proceeding had or commenced, before the effective date of these regulations.

3. The regulations in this part shall become effective on the first day of the first month which begins not less than 30 days following the date of publication in the FEDERAL REGISTER.

Subpart A—Scope

- | | |
|-------|--------------------------------------|
| Sec. | |
| 198.1 | General. |
| 198.2 | Territorial extent. |
| 198.3 | Status of existing qualified plants. |

Subpart B—Definitions

- | | |
|--------|-------------------|
| 198.11 | Meaning of terms. |
|--------|-------------------|

Subpart C—Administrative and Miscellaneous Provisions

- | | |
|--------|--|
| 198.21 | Forms prescribed. |
| 198.22 | Other business. |
| 198.23 | Alternate methods of procedures; and emergency variations from requirements. |
| 198.24 | Approval of documents. |
| 198.25 | Installation of meters, tanks, and other apparatus. |
| 198.26 | Right of entry and examination. |
| 198.27 | Taxable status of stills. |
| 198.28 | Unlawful operations. |
| 198.29 | Retention of documents. |

Subpart D—Location and Use

- | | |
|--------|--|
| 198.41 | Restriction as to location. |
| 198.42 | Use of premises. |
| 198.43 | Concentrate plant located on other premises. |

Subpart E—Qualification of Volatile Fruit-Flavor Concentrate Plants

- | | |
|--------|----------------------------------|
| 198.51 | General. |
| 198.52 | Data for application, Form 27-G. |
| 198.53 | Power of attorney. |
| 198.54 | Organizational documents. |
| 198.55 | Description of plant. |
| 198.56 | Statement of capacity. |
| 198.57 | Registry of stills. |

PLATS AND FLOW PLANS

- | | |
|--------|--------------------------|
| 198.58 | General requirements. |
| 198.59 | Preparation. |
| 198.60 | Depiction of premises. |
| 198.61 | Flow plans. |
| 198.62 | Certificate of accuracy. |
| 198.63 | Revised plats and plans. |

CHANGES AFTER ORIGINAL ESTABLISHMENT

- | | |
|--------|--|
| 198.64 | General requirements. |
| 198.65 | Change in name of proprietor. |
| 198.66 | Change in proprietorship. |
| 198.67 | Adoption of plat and plans. |
| 198.68 | Continuing partnerships. |
| 198.69 | Change in location. |
| 198.70 | Change in equipment. |
| 198.71 | Change in process. |
| 198.72 | Suspension and resumption of operations. |
| 198.73 | Notice of permanent discontinuance. |

Subpart F—Bonds and Consents of Surety

- | | |
|--------|--|
| 198.81 | Bond, Form 1694. |
| 198.82 | Corporate surety. |
| 198.83 | Deposit of securities in lieu of corporate surety. |
| 198.84 | Consents of surety. |
| 198.85 | Strengthening bonds. |
| 198.86 | New bond. |

TERMINATION OF BONDS

- | | |
|--------|---|
| 198.87 | Termination of bond. |
| 198.88 | Application of surety for relief from bond. |
| 198.89 | Relief of surety from bond. |
| 198.90 | Release of pledged securities. |

Subpart G—Construction and Equipment

- | | |
|---------|--|
| 198.101 | Security. |
| 198.102 | Means of ingress and egress. |
| 198.103 | Identification of apparatus and equipment. |

Subpart H—Operations

- | | |
|---------|----------------------------------|
| Sec. | |
| 198.111 | Processing material. |
| 198.112 | Quantities to be determined. |
| 198.113 | Use of concentrates on premises. |
| 198.114 | Removal of concentrate. |
| 198.115 | Label. |

Subpart I—Records and Reports

- | | |
|---------|---------------------------------|
| 198.121 | Records and reports. |
| 198.122 | Photographic copies of records. |
| 198.123 | Daily records. |
| 198.124 | Monthly report. |
| 198.125 | Final report. |

AUTHORITY: §§ 198.1 to 198.125 issued under sec. 7805, 68A Stat. 917; 26 U.S.C. 7805. Statutory provisions interpreted or applied are cited to the text in parentheses.

Subpart A—Scope

§ 198.1 General.

The regulations in this part relate to the location, construction, arrangement, equipment, and qualification of plants for the manufacture of volatile fruit-flavor concentrates; and to the production, removal, sale, transportation, and use of such concentrates and of the fruit mash or juice from which such concentrates are produced.

§ 198.2 Territorial extent.

This part applies to the several States of the United States and the District of Columbia.

§ 198.3 Status of existing qualified plants.

Volatile fruit-flavor concentrate plants heretofore qualified to operate may continue to operate, pursuant to their prior qualification, after the effective date of the regulations in this part. All plants hereafter established, and all changes in existing plants, shall be in conformity with this part. Operations of all plants shall be conducted pursuant to the provisions of this part.

Subpart B—Definitions

§ 198.11 Meaning of terms.

When used in this part and in forms prescribed under this part, where not otherwise distinctly expressed or manifestly incompatible with the intent thereof, terms shall have the meaning ascribed in this section. Words in the plural form shall include the singular, and vice versa, and words importing the masculine gender shall include the feminine. The terms "includes" and "including" do not exclude things not enumerated which are in the same general class.

Assistant Regional commissioner. An assistant regional commissioner (alcohol and tobacco tax) who is responsible to, and functions under the direction and supervision of, a regional commissioner of internal revenue.

Commissioner. The Commissioner of Internal Revenue.

Concentrate. Any volatile fruit-flavor concentrate produced by any process

which includes evaporation from any fruit mash or juice.

Concentrate plant. An establishment qualified under this part for the production of concentrates.

Director. The Director, Alcohol and Tobacco Tax Division, Internal Revenue Service, Washington, D.C.

Executed under penalties of perjury. Signed with the prescribed declaration under the penalties of perjury as provided on or with respect to the application, report, form, or other document or, where no form of declaration is prescribed, with the declaration: "I declare under the penalties of perjury that this ----- (insert type of document, such as application or report), including the documents submitted in support thereof, has been examined by me and, to the best of my knowledge and belief, is true, correct and complete."

Flashed mash or juice. The spent fruit mash or juice from which the volatile fruit flavors have been removed.

Fold. The ratio of the volume of the fruit mash or juice to the volume of the concentrate produced from such fruit mash or juice. For example, one gallon of concentrate of 100-fold would be the product from 100 gallons of fruit mash or juice.

Fruit. All products commonly known and classified as fruit, berries, or grapes.

I.R.C. The Internal Revenue Code of 1954, as amended.

Person. An individual, trust, estate, partnership, association, company, or corporation.

Processing material. The fruit mash or juice from which concentrate is to be made.

Proprietor. The person qualified under this part to operate the volatile fruit-flavor concentrate plant.

Registry number. The number assigned to a volatile fruit-flavor concentrate plant by the assistant regional commissioner.

U.S.C. The United States Code.

Subpart C—Administrative and Miscellaneous Provisions

§ 198.21 Forms prescribed.

The Director is authorized to prescribe all forms required by this part. All the information called for in each form shall be furnished, as indicated by the headings on the forms and the instructions thereon or issued in respect thereto, and as required by this part.

§ 198.22 Other business.

The Director may authorize (a) the establishment of a concentrate plant on premises where fruit products, other than concentrates, are made or (b) the carrying on of such other businesses on premises of a concentrate plant where he finds such establishment of a concentrate plant or the carrying on of such other business will not jeopardize the revenue, hinder effective administration of this part, or be contrary to law.

§ 198.23 Alternate methods or procedures; and emergency variations from requirements.

(a) **Alternate methods or procedures.** The proprietor, on specific approval by

the Director as provided in this paragraph, may use an alternate method or procedure in lieu of a method or procedure specifically prescribed in this part. The Director may approve an alternate method or procedure, subject to stated conditions, when he finds that—

(1) Good cause has been shown for the use of the alternate method or procedure;

(2) The alternate method or procedure is within the purpose of, and consistent with the effect intended by, the specifically prescribed method or procedure, and affords equivalent security to the revenue; and

(3) The alternate method or procedure will not be contrary to any provision of law, and will not result in an increase in cost to the Government or hinder the effective administration of this part.

No alternate method or procedure relating to the giving of any bond shall be authorized under this paragraph. Where the proprietor desires to employ an alternate method or procedure, he shall submit a written application so to do, in triplicate, to the assistant regional commissioner, for transmittal to the Director. The application shall specifically describe the proposed alternate method or procedure, and shall set forth the reasons therefor. Alternate methods or procedures shall not be employed until the application has been approved by the Director. The proprietor shall, during the period of authorization of an alternate method or procedure, comply with the terms of the approved application. Authorization for any alternate method or procedure may be withdrawn whenever in the judgment of the Director the revenue is jeopardized or the effective administration of this part is hindered by the continuation of such authorization. As used in this paragraph, alternate methods or procedures shall include alternate construction or equipment.

(b) **Emergency variations from requirements.** The Director may approve construction, equipment, and methods of operation other than as specified in this part, where he finds that an emergency exists and the proposed variations from the specified requirements are necessary, and the proposed variations—

(1) Will afford the security and protection to the revenue intended by the prescribed specifications;

(2) Will not hinder the effective administration of this part; and

(3) Will not be contrary to any provisions of law. Variations from requirements granted under this paragraph are conditioned on compliance with the procedures, conditions, and limitations with respect thereto set forth in the approval of the application. Failure to comply in good faith with such procedures, conditions, and limitations shall automatically terminate the authority for such variations and the proprietor thereupon shall fully comply with the prescribed requirements of regulations from which the variations were authorized. Authority for any variation may be withdrawn whenever in the judgment of the Director the revenue is jeopardized or the

effective administration of this part is hindered by the continuation of such variation. When the proprietor desires to employ such variation, he shall submit a written application so to do, in triplicate, to the assistant regional commissioner for transmittal to the Director. The application shall describe the proposed variations and set forth the reasons therefor. Variations shall not be employed until the application has been approved.

§ 198.24 Approval of documents.

The assistant regional commissioner is authorized to approve, except as otherwise provided in this part, all qualifying documents, bonds, and consents of surety required by this part.

§ 198.25 Installation of meters, tanks, and other apparatus.

The assistant regional commissioner is authorized to require the proprietor to install meters, tanks, pipes, or any other apparatus which the assistant regional commissioner deems advisable for the purpose of protecting the revenue. Any proprietor refusing or neglecting to install such apparatus when so required shall not be permitted to operate.

(72 Stat. 1395; 28 U.S.C. 5552)

§ 198.26 Right of entry and examination.

Any internal revenue officer may at all times, as well by night as by day, enter any concentrate plant to make examination of the materials, equipment, and facilities thereon; and make such gauges and inventories as he deems necessary. Whenever any internal revenue officer, having demanded admittance, and having declared his name and office, is not admitted into such premises by the proprietor or other person having charge thereof, he may at all times use such force as is necessary for him to gain entry to such premises.

(72 Stat. 1357; 26 U.S.C. 5203)

§ 198.27 Taxable status of stills.

The special (occupation and commodity) taxes imposed by section 5101, I.R.C., shall not be applicable in respect of any stills set up on concentrate plant premises and used in the production of concentrates pursuant to this part.

§ 198.28 Unlawful operations.

A manufacturer of concentrate who violates any of the conditions exempting him from the provisions of chapter 51, I.R.C., will subject himself to the taxes and penalties otherwise applicable under that chapter in respect of such operations; and any person who sells, transports, or uses any concentrate or the mash or juice from which it is produced, in violation of chapter 51, I.R.C., or the regulations promulgated thereunder, will subject himself to all the provisions of that chapter pertaining to distilled spirits and wines, including those requiring the payment of the tax thereon.

(72 Stat. 1314; 26 U.S.C. 5001)

§ 198.29 Retention of documents.

The proprietor shall maintain a file of approved Forms 27-G, plats, flow plans,

bonds, and other documents, on or convenient to the concentrate plant premises, available for inspection by internal revenue officers.

Subpart D—Location and Use

§ 198.41 Restrictions as to location.

A concentrate plant shall not be established in any dwelling house or on board any vessel or boat, or (except as provided in this subpart) in any building or on any premises where any other business is carried on or where the revenue will be jeopardized or the effective administration of this part will be hindered.

§ 198.42 Use of premises.

The premises and equipment of a concentrate plant shall be used only for the business stated in the approved application for registration. Where the proprietor desires to use such premises and equipment, or any portion thereof, for any business other than that of a manufacturer of concentrates (and activities incident thereto), he shall submit to the Director, through the assistant regional commissioner, a written application, in triplicate, setting forth the type of business he desires to conduct, the buildings and equipment he proposes to use, and the relationship, if any, of such business to concentrate plant operations. On approval of the application by the Director, the proprietor shall submit an amended application for registration, Form 27-G, setting forth the type of business to be conducted. Such business may not be carried on until the application, Form 27-G, has been approved by the assistant regional commissioner.

§ 198.43 Concentrate plant located on other premises.

Any person desiring to establish a concentrate plant on premises where fruit products, other than concentrates, are made shall submit to the Director, through the assistant regional commissioner, a written application, in triplicate, setting forth a description of the premises on which he desires to establish the concentrate plant, the type of business conducted thereon, and the relationship, if any, of such business to concentrate plant operations. On approval of the application by the Director, the applicant shall comply with the provisions of Subparts E and F of this part.

Subpart E—Qualification of Volatile Fruit-Flavor Concentrate Plants

§ 198.51 General.

A person shall not engage in the business of manufacturing concentrates unless he has made application for registration, on Form 27-G, to the assistant regional commissioner and has received his approval thereof as provided in this part. Each application shall be executed under penalties of perjury, and all written statements, affidavits, and other documents submitted in support of the application or incorporated by reference shall be deemed to be a part thereof.

§ 198.52 Data for application, Form 27-G.

Applications on Form 27-G shall be prepared in accordance with the instructions thereon and issued in respect thereto, and shall include the following:

- (a) Serial number.
- (b) Name and principal business address of the applicant, and the location of the plant if different from the business address.
- (c) Statement of purpose for which filed.
- (d) Statement of information regarding proprietorship, supported by the organizational documents listed in § 198.54.
- (e) Description of plant (see § 198.55).
- (f) Description of major apparatus and equipment. List separately each tank, evaporator, and separator by serial number and show the capacity of each in wine gallons. List separately each still and condenser by serial number, kind, capacity and intended use.
- (g) Statement of capacity of plant (see § 198.56).
- (h) Statement of process to be employed.
- (i) Statement of other business, if any, to be conducted on concentrate plant premises, identifying approved application therefor.

Where any of the information required by paragraph (d) of this section is on file with the assistant regional commissioner, such information, if accurate and complete, may, by incorporation by reference thereto by the applicant, be made a part of the application. The applicant shall, when so required by the assistant regional commissioner, furnish as a part of his application such additional information as may be necessary for the assistant regional commissioner to determine whether the application should be approved.

§ 198.53 Powers of attorney.

The proprietor shall execute and file with the assistant regional commissioner a Form 1534, in accordance with the instructions on the form, for every person authorized to sign or to act on behalf of the proprietor. (Not required for persons whose authority is furnished in the application, Form 27-G.)

§ 198.54 Organizational documents.

The supporting information required by paragraph (d) of § 198.52, includes, as applicable:

- (a) Extracts from the articles of incorporation or of the minutes of meetings of the board of directors, authorizing the incumbents of certain offices, or other persons, to sign for the corporation;
- (b) Names and addresses of the officers and directors;
- (c) Names and addresses of the 10 persons having the largest ownership or other interest in the corporation, or other legal entity, and the nature and amount of the stockholding or other interest of each, whether said interest appears in the name of the interested party or in the name of another for him; and
- (d) In the case of individual owner or partnership, the name and address of

every person interested in the concentrate plant, whether such interest appears in the name of the interested party or in the name of another for him.

§ 198.55 Description of plant.

The application, Form 27-G, shall contain a complete description of the building constituting or containing the concentrate plant, including the location, dimensions, material of which constructed, and means of protection and security. All rooms or areas comprising the concentrate plant shall be described on Form 27-G. The description shall include the designated name of each room or area, which shall be according to its use, and the dimensions thereof.

§ 198.56 Statement of capacity.

The statement of the capacity of the plant in the application, Form 27-G, shall set forth the kind, by name of fruit, of processing materials to be used, the maximum quantity of each kind of processing material that will be processed in 24 hours, the maximum quantity of concentrates (in wine gallons) that will be produced in 24 hours, and, as to each kind, the minimum and maximum folds to which the volatile fruit-flavors will be concentrated, and the maximum percent of alcohol that will be contained in the concentrates.

§ 198.57 Registry of stills.

Any stills set up on concentrate plant premises and intended to be used in the production of concentrates shall be registered with the assistant regional commissioner of the region in which located. The listing of stills for production of concentrates in the application, Form 27-G, and the approval of the application shall constitute registration of such stills: *Provided*, That stills set up and registered under regulations in effect prior to the effective date of these regulations shall not be required to be reregistered because of the provisions of this section.

PLATS AND FLOW PLANS

§ 198.58 General requirements.

The proprietor shall submit with his application, Form 27-G, a plat of the premises, and flow plans, in triplicate, in conformity with the requirements of this subpart.

§ 198.59 Preparation.

Every plat shall be drawn to scale and shall show the cardinal points of the compass. Each plat and flow plan shall bear a distinctive title, and the complete name and address of the proprietor, enabling ready identification. Each sheet of the drawings shall be numbered, the first being designated number "1", and the other sheets numbered in consecutive order. The dimensions of the drawings shall be 15" x 20", outside measurement, with a clear margin of at least 1" on each side: *Provided*, That the assistant regional commissioner may authorize the use of larger sheets if they can be satisfactorily filed. The drawings shall be submitted on sheets of good quality white paper, tracing cloth, opaque cloth,

sensitized linen, or blueprint paper, and may be original drawings, or, if clear and distinct, reproductions made by lithoprint, ditto, or ozalid processes. The Director may approve other materials and methods which he finds are equally acceptable.

§ 198.60 Depiction of premises.

The plat shall show the outer boundaries of the concentrate plant premises in feet and inches, in a color contrasting with those used for other drawings on the plat, and shall contain an accurate depiction of the building or buildings comprising such premises. The depiction of such premises should agree with the description in the application, Form 27-G. If two or more buildings are to be used, they shall be shown in their relative positions, and the designated name or use of each shall be indicated. All exterior doors on the first floor of each building shall be shown on the plat. If the concentrate plant consists of less than an entire building, the plat shall show the building, the location of the concentrate plant within the building, and the means of ingress from and egress to a public street or yard. Where premises on which distilled spirits, wines, beer, or other liquors are manufactured or produced, stored, used, or sold, are contiguous to the concentrate plant, the plat shall show the relative location of the concentrate plant and such contiguous premises, and all pipelines and other connections, if any, between them (public utility pipelines and similar connections excepted), and the distance they are from each other. The outlines of such contiguous premises and the concentrate plant shall be shown in contrasting colors.

§ 198.61 Flow plans.

Flow plans shall be submitted reflecting the production process and shall show major equipment (identified as to use) in its relative operating sequence, with essential connecting pipelines and valves. Minor equipment (such as pumps, pressure regulators, or rotometers) need not be shown. The direction of flow through the equipment and pipelines shall be indicated by arrows.

§ 198.62 Certificate of accuracy.

The plat and plans shall bear a certificate of accuracy in the lower right-hand corner of each sheet, signed by the proprietor, substantially as follows:

(Name of proprietor)

(Concentrate Plant No.)

(Address)

Accuracy certified by: _____

(Name and capacity—
for the proprietor) _____, 19--

Sheet No. -----

§ 198.63 Revised plats and plans.

Any revised plat or plan shall bear the same number as the sheet superseded, but will be given a new date. Any additional plat or plan sheet shall be given a new number in consecutive order, or

will be otherwise numbered and lettered in such manner as will permit the filing of the plat or plan in proper sequence.

CHANGES AFTER ORIGINAL ESTABLISHMENT

§ 198.64 General requirements.

Where there is a change with respect to the information shown in the application, Form 27-G, the proprietor shall (except as otherwise provided in this subpart) submit, within 10 days of such change, an amended application on Form 27-G. Such application may be executed in skeleton form. Items which are correctly set forth in prior applications and remain unchanged may be incorporated in the amended application by reference to the respective application previously filed in which the item is fully and correctly set forth. Such incorporation by reference shall be made by entering for such item in the space provided therefor the statement "No change since filing Form 27-G, Ser. No. ----- (insert serial number)."

(72 Stat. 1392; 26 U.S.C. 5511)

§ 198.65 Change in name of proprietor.

Where there is to be a change in the individual, firm, or corporate name, the proprietor shall file an amended application, Form 27-G; a new bond or consent of surety will not be required. Operations shall not be conducted under the new name prior to approval of the amended application.

§ 198.66 Change in proprietorship.

(a) *General.* Where there is a change in the proprietorship of a concentrate plant, the outgoing proprietor shall comply with the requirements of § 198.73, and the successor shall, before commencing operations, file the required bond, and file application on Form 27-G and receive approval thereof in the same manner as a person qualifying as the proprietor of a new concentrate plant, except that he may adopt the plats and plans of the predecessor as provided in § 198.67. Materials, concentrates, and flashed mash or juice may be transferred from an outgoing proprietor to a successor.

(b) *Fiduciary.* If the successor to the proprietorship of a concentrate plant is an administrator, executor, receiver, trustee, assignee, or other fiduciary, he shall comply with the provisions of paragraph (a) of this section except that he may, in lieu of filing a new bond, furnish consent of surety extending the terms of his predecessor's bond, and he may also incorporate by reference in his application on Form 27-G any pertinent information contained in his predecessor's approved application. The fiduciary shall furnish a certified copy of the order of the court or other pertinent document showing his qualification as such fiduciary. If the fiduciary was appointed by a court, the effective dates of the qualifying documents filed by the fiduciary shall be the effective date of the court order, or the date specified therein for him to assume control. If the fiduciary was not appointed by a court, the date of his assuming control shall coincide with the effective date of the qualifying documents filed by him.

(c) *Corporation.* The sale or transfer of the capital stock of a corporation operating a concentrate plant does not constitute a change in the proprietorship of such plant. However, where the sale or transfer of capital stock results in a change in the control or management of the business, or where there is a change in the officers or directors, the proprietor, within 10 days, shall give written notice thereof, in triplicate, to the assistant regional commissioner. A change in stockholders of corporations not constituting a change in control need not be so reported.

§ 198.67 Adoption of plat and plans.

The adoption by a successor of the plat and plans of a predecessor shall be in the form of a certificate to be submitted with the application, Form 27-G, in which shall be set forth the identity of the concentrate plant and the predecessor, and a description (by sheet number and title) of each plat and plan sheet adopted, and a certification that the adopted plat and plans accurately depict the premises.

§ 198.68 Continuing partnerships.

Where, under the laws of the particular State, the partnership is not terminated on death or insolvency of a partner, but continues until the winding up of the partnership affairs is completed, and the surviving partner has the exclusive right to the control and possession of the partnership assets for the purpose of liquidation and settlement, such surviving partner may continue to operate the plant under the prior qualification of the partnership, provided a consent of surety, wherein the surety and the surviving partner agree to remain liable on the bond given on Form 1694, is filed. If such surviving partner acquires the business on completion of the settlement of the partnership, he shall qualify in his own name from the date of acquisition, as provided in § 198.66(a). The rule set forth in this section shall also apply where there is more than one surviving partner.

§ 198.69 Change in location.

Where there is a change in the location of a concentrate plant, the proprietor shall file an amended application, Form 27-G, new plat and plans, and either a new bond or a consent of surety on Form 1533. Operation of the concentrate plant may not be commenced at the new location prior to approval of the amended application, the new plat and plans, and the new bond or the consent of surety.

§ 198.70 Changes in equipment.

Where changes are to be made in the distilling apparatus and equipment, which changes would affect the accuracy of the application and the plat and plans, the proprietor shall first secure approval thereof by the assistant regional commissioner pursuant to application, in duplicate, setting forth specifically the proposed changes: *Provided*, That emergency repairs may be made without prior approval of the assistant regional commissioner. Where such emergency repairs are made, the

PROPOSED RULE MAKING

proprietor shall file immediately a report thereof, in duplicate, with the assistant regional commissioner. Changes made under this section shall be reflected in the next amendment of the application, Form 27-G, and in the next revision of the plat and plans unless the assistant regional commissioner requires the immediate filing of such documents.

§ 198.71 Change in process.

Before a proprietor makes any change in his process of manufacture which would affect the accuracy of the statement of process required by § 198.52, he shall file an amended application, Form 27-G, to include the amended or new statement of process and the new or amended process may not be used prior to approval of the amended application.

§ 198.72 Suspension and resumption of operations.

Any proprietor desiring to suspend operations for a period of 30 days or more shall give written notice to the assistant regional commissioner of the date operations are to be suspended and the approximate date operations are to be resumed. Where the proprietor wishes to resume operations at an earlier date than stated, he shall give written notice to the assistant regional commissioner to that effect at least 10 days before operations are to be resumed.

§ 198.73 Notice of permanent discontinuance.

Where the proprietor permanently discontinues the business of a concentrate manufacturer, he shall, after completion of his operations, file a Form 27-G to cover such discontinuance, giving the date of the discontinuance.

Subpart F—Bonds and Consents of Surety

§ 198.81 Bond, Form 1694.

Every person intending to commence the business of manufacturing concentrates shall file bond, Form 1694, with the assistant regional commissioner at the time of filing his original application, Form 27-G, and at such other times as are required by this subpart. Such bond shall be conditioned that each such person shall fully and faithfully comply with all of the requirements of the law and regulations relating to the manufacture, removal, sale, transportation, or use of any concentrate (or any fruit mash or juice from which such concentrate is produced) and shall pay or cause to be paid, all taxes, together with penalties and interest, on all such concentrates or any other alcoholic products manufactured, removed, sold, transported, or used by him contrary to law or regulations. No person shall commence or continue the business of manufacturing concentrates until such bond has been approved by the assistant regional commissioner. The penal sum of bond, Form 1694, shall be \$5,000: *Provided*, That where it is the opinion of the assistant regional commissioner that an additional bond should be required for the protection of the revenue, because of the magnitude of the proposed operations, or for other good

reason, he may require an additional bond not to exceed \$20,000.

(72 Stat. 1392; 26 U.S.C. 5511)

§ 198.82 Corporate surety.

Surety bonds required by this part may be given only with corporate sureties holding certificates of authority from, and subject to the limitations prescribed by, the Secretary of the Treasury as set forth in the current revision of Treasury Department Circular 570. Powers of attorney and other evidence of appointment of agents and officers to execute bonds or to consent to changes in the terms of bonds on behalf of corporate sureties are required to be filed with, and passed on by, the Commissioner of Accounts, Surety Bonds Branch, Treasury Department.

(61 Stat. 648; 6 U.S.C. 6, 7)

§ 198.83 Deposit of securities in lieu of corporate surety.

In lieu of corporate surety, the principal may pledge and deposit, as surety for his bond, securities which are transferable and are guaranteed as to both interest and principal by the United States, in accordance with the provisions of 31 CFR Part 225.

(61 Stat. 650; 6 U.S.C. 15)

§ 198.84 Consents of surety.

Consents of surety to changes in the terms of bonds shall be executed on Form 1533 by the principal and by the surety with the same formality and proof of authority as is required for the execution of bonds.

§ 198.85 Strengthening bonds.

In any case where the assistant regional commissioner determines under the provisions of § 198.81 that an additional bond should be required, the principal shall either give a strengthening bond with the same surety to attain the penal sum set by the assistant regional commissioner, or give a new bond to cover the entire liability. Strengthening bonds will not be approved where any notation is made thereon which is intended, or which may be construed, as a release of any former bond, or as limiting the amount of any bond to less than its full penal sum. Strengthening bonds shall show the current date of execution and the effective date.

§ 198.86 New bond.

A new bond shall be required in the case of the insolvency or removal of any surety, and may, at the discretion of the assistant regional commissioner, be required in any other contingency affecting the validity or impairing the efficiency of bond given on Form 1694. Where, under the provisions of § 198.88, the surety on a bond, on Form 1694, has filed application to be relieved of liability under such bond and the principal desires to continue the business of a concentrate manufacturer, he shall file a valid superseding bond to be effective on or before the date specified in the surety's notice. Where a new bond is submitted to supersede a bond or bonds in effect, the new bond shall show the current date of execution and the effective date.

If a new bond is not filed when required the principal shall discontinue forthwith operations at his concentrate plant.

TERMINATION OF BONDS

§ 198.87 Termination of bond.

A bond, Form 1694, may be terminated by the assistant regional commissioner as to future liability pursuant to (a) application by the surety as provided in § 198.88, (b) approval of a superseding bond, or (c) discontinuance of business by the principal.

§ 198.88 Application of surety for relief from bond.

A surety on any bond required by this part may at any time, in writing, notify the principal and the assistant regional commissioner in whose office the bond is on file that he desires, after a date named, to be relieved of liability under such bond. Such date shall be not less than 60 days after the date the notice is received by the assistant regional commissioner. The notice shall be executed in triplicate by the surety, who shall deliver one copy to the principal and two copies to the assistant regional commissioner. The surety shall also file with the assistant regional commissioner an acknowledgment or other proof of service of such notice on the principal. Unless the notice is withdrawn in writing before such date, the rights of the principal as supported by such bond shall be terminated on the date named in the notice, and the surety shall be relieved from liability to the extent set forth in § 198.89.

§ 198.89 Relief of surety from bond.

Where the surety has filed application for relief from liability, as provided in § 198.88, and a new or superseding bond has been filed, the surety shall be relieved of liability arising from acts occurring wholly on or subsequent to the effective date of the new or superseding bond. If the concentrate manufacturer files a valid superseding bond on Form 1694 prior to the date named in the surety's notice, the surety shall also be relieved from liability for concentrate and fruit mash or juice on hand at the concentrate plant on such date. If the principal fails to file a superseding bond, the surety, notwithstanding his release from liability as specified above, shall continue to remain liable under the bond for all concentrates and fruit mash or juice on hand at the concentrate plant on such date, until such concentrate and mash or juice have been lawfully disposed of or a new bond has been filed by the principal covering the same.

§ 198.90 Release of pledged securities.

Securities of the United States pledged and deposited as provided in § 198.83 shall be released only in accordance with the provisions of 31 CFR Part 225. Such securities will not be released by the assistant regional commissioner until liability under the bond for which they were pledged has been terminated. When the assistant regional commissioner is satisfied that they may be released, he shall fix the date or dates on which a part or all of such securities may be released. At any time prior to

the release of such securities, the assistant regional commissioner may extend the date of release for such additional length of time as he deems necessary.

(61 Stat. 650; 6 U.S.C. 15)

Subpart G—Construction and Equipment

§ 198.101 Security.

The concentrate plant and equipment shall be so constructed, arranged, equipped, and protected as to afford adequate protection to the revenue and facilitate inspection by internal revenue officers.

§ 198.102 Means of ingress and egress.

The proprietor shall make provisions to assure that internal revenue officers have ready ingress to, and egress from, the concentrate plant at any time, and furnish, on request, evidence satisfactory to the assistant regional commissioner that such ingress and egress are assured.

(72 Stat. 1357; 26 U.S.C. 5203)

§ 198.103 Identification of apparatus and equipment.

Each tank or receptacle for concentrate, processing material, or flashed mash or juice shall be marked to show its serial number, capacity, and use. Each still, separator, evaporator, and condenser shall be numbered and marked to show its use. All other major equipment used for manufacturing concentrates shall be identified as to use unless the intended use thereof is readily apparent.

Subpart H—Operations

§ 198.111 Processing material.

A proprietor may produce processing material or receive processing material produced elsewhere. Fermented processing material shall not be used in the manufacture of concentrates. Processing material may be used if it contains no more alcohol than is reasonably unavoidable, and shall be used when produced, or as soon thereafter as practicable. If processing material is removed from the concentrate plant for any purpose whatsoever, the proprietor shall enter in his record required by § 198.123 the kind and quantity so removed, the name and address of the consignee, and the reason for the removal.

§ 198.112 Quantities to be determined.

The proprietor shall determine the number of gallons of processing material fed to the evaporator and the quantity and alcohol content of the concentrate produced therefrom. Such determinations shall be recorded as prescribed in § 198.123.

§ 198.113 Use of concentrates on premises.

Concentrates may be used on the concentrate plant premises in the manufacture of any product made in the conduct of another business authorized to be conducted on concentrate plant premises under the provisions of § 198.22, if such product contains less than one-half of one percent of alcohol by volume.

§ 198.114 Removal of concentrate.

Concentrate fit for use as a beverage may not be removed from the place of manufacture. Where the alcohol content of any concentrate exceeds six percent but not fifteen percent of alcohol by volume, and it is desired to remove such concentrate from the premises, there shall be added to each gallon thereof not less than:

- (a) $8\frac{3}{10}$ pounds of sucrose; or
- (b) 1 gallon of concentrated fruit juice of not less than 70 degree Brix made from the same kind of fruit used in the manufacture of the concentrate; or
- (c) $2\frac{1}{2}$ ounces of any one of the following:
 - (1) Malic acid;
 - (2) Citric acid;
 - (3) Tartaric acid.

Concentrate containing not more than six percent alcohol by volume may be removed from the premises without being modified by the addition of any substance unless the Director finds that the concentrate is fit for use as a beverage and requires the addition thereto of substances specified in paragraphs (a), (b), or (c) of this section.

§ 198.115 Label.

Each container of concentrate shall have affixed thereto, before removal, a label identifying the product and showing (a) the name of the proprietor; (b) the registry number of the plant; and (c) the address of the plant, as shown on the application, Form 27-G.

Subpart I—Records and Reports

§ 198.121 Records and reports.

Each proprietor shall keep records and render reports as required by this part. Such records, and copies of such reports, shall be maintained on or convenient to the concentrate plant available for inspection by internal revenue officers during business hours. The records and copies of reports shall be preserved for a period of not less than two years from the date thereof or the date of the last entry required to be made thereon, whichever is the later.

§ 198.122 Photographic copies of records.

Persons who desire to record, copy, or reproduce records required to be preserved under § 198.121 by any photographic, photostatic, microfilm, microcard, miniature photographic, or other process which accurately reproduces or forms a durable medium for so reproducing the original of such records, shall make application to the assistant regional commissioner, in triplicate, to do so, describing:

- (a) The records to be reproduced.
- (b) The reproduction process to be employed.
- (c) The manner in which the reproductions are to be preserved.
- (d) The provisions to be made for examining, viewing, and using such reproductions.

The assistant regional commissioner shall not approve any application unless (1) the Director has approved that type

of record for reproduction and the reproduction process to be employed, and (2) the manner of preservation of the reproductions and the provisions for examining, viewing, and using such reproductions are, in the assistant regional commissioner's opinion, satisfactory. Whenever records are reproduced under this section, the reproduced records shall be preserved in conveniently accessible files, and provisions shall be made for examining, viewing, and using the reproduced record the same as if it were the original record, and it shall be treated and considered for all purposes as though it were the original record; all provisions of law and regulations applicable to the original record shall be applicable to the reproduced record. As used in this section "original record" shall mean the record required by this part to be maintained or preserved, even though it may be an executed duplicate or other copy of the document.

§ 198.123 Daily records.

The proprietor shall maintain daily records which show the date of the transaction and which accurately and clearly reflect, by kind and by quantity, the following:

- (a) Processing material used.
- (b) Processing material removed.
- (c) Concentrates produced and the alcohol content thereof.
- (d) Concentrates used in manufacture of products, and concentrates removed from the concentrate plant premises (showing the name and address of each person to whom such concentrates are shipped).

(e) Substances received for use in rendering concentrates unfit for use as a beverage.

(f) Substances used in rendering concentrates unfit for use as a beverage or otherwise disposed of.

(72 Stat. 1392; 26 U.S.C. 5511)

§ 198.124 Monthly report.

A monthly report, on Form 1695, of concentrate plant operations shall be prepared in duplicate by each proprietor. Where the proprietor has given notice of suspension of operations in accordance with the provisions of § 198.72, a report on Form 1695 need not be prepared or submitted for any month in which there were no operations. The original of each monthly report shall be forwarded to the assistant regional commissioner not later than the tenth day of the month succeeding that for which rendered.

§ 198.125 Final report.

When a change in the proprietorship of the concentrate plant occurs, the outgoing proprietor shall enter on his final report, Form 1695, an account of all concentrates transferred to his successor, who shall in turn enter such items on his report, Form 1695, as received from his predecessor. The outgoing proprietor shall make appropriate notation on all forms and records required to be kept by him, showing the change in proprietorship and the date thereof.

[F.R. Doc. 62-11025; Filed, Nov. 2, 1962; 8:49 a.m.]

DEPARTMENT OF AGRICULTURE

Agricultural Stabilization and
Conservation Service

[7 CFR Part 729]

PEANUTS

Notice of Intention To Issue Allotment and Marketing Quota Regulations for Peanuts of the 1963 and Sub- sequent Crops

Pursuant to authority contained in applicable provisions of the Agricultural Adjustment Act of 1938, as amended (7 U.S.C. 1281 et. seq.), the Secretary is preparing to issue allotment and marketing quota regulations for peanuts of the 1963 and subsequent crops. These regulations will supersede the Allotment and Marketing Quota Regulations for Peanuts of the 1959 and Subsequent Crops (23 F.R. 8515, 24 F.R. 2677, 6803, 9611, 25 F.R. 897, 8065, 10567, 26 F.R. 1344, 2523, 4631, 8560, 10209, 11816, 27 F.R. 9171). Such superseded regulations will remain fully effective for determinations which relate to peanuts of the 1959, 1960, 1961, and 1962 crops.

The proposed regulations will reorganize provisions of existing regulations and incorporate, in logical sequence, the provisions of the various amendments thereto. Also, the proposed regulations are intended to simplify and clarify language in existing regulations. Major changes in operating procedure, which would be of interest to producers, are not contemplated.

Prior to issuance of the proposed regulations, consideration will be given to any data, views and recommendations for improving program provisions and procedures which are submitted in writing to the Director, Oils and Peanut Division, Agricultural Stabilization and Conservation Service, United States Department of Agriculture, Washington 25, D.C. To be considered, any such submission must be postmarked not later than 15 days after publication of this notice in the FEDERAL REGISTER.

Signed at Washington, D.C., on October 31, 1962.

ROBERT G. LEWIS,
Acting Administrator, Agricultural Stabilization and Conservation Service.

[F.R. Doc. 62-11036; Filed, Nov. 2, 1962;
8:49 a.m.]

Commodity Exchange Authority

[17 CFR Part 1]

GENERAL REGULATIONS UNDER COMMODITY EXCHANGE ACT

Notice of Proposed Rule Making

Notice is hereby given, in accordance with section 4 of the Administrative Procedure Act (7 U.S.C. 1003), that the Secretary of Agriculture, pursuant to the authority of section 8a of the Commodity Exchange Act (7 U.S.C. 12a), is considering the amendment of §§ 1.33 and

1.34 of the general regulations (17 CFR 1.33, 1.34) under the Commodity Exchange Act and the addition of a new § 1.33a to said regulations, to read, respectively, as follows:

§ 1.33 Monthly statement for customer and record of customer's position in each future.

(a) Each futures commission merchant shall promptly furnish in writing directly to each customer, as of the close of the last business day of each calendar month or as of any regular monthly date selected, a statement which clearly shows the open contracts with prices at which acquired, and the ledger balance carried for the customer's account. Such statement or an accompanying supplemental statement shall show any securities or other property which the customer has deposited with the futures commission merchant to margin, guarantee, or secure the account.

(b) Copies of the statements prepared for customers shall be retained by the futures commission merchant in accordance with the requirements of § 1.31.

§ 1.33a Controlled accounts.

With respect to any account controlled by any person other than the customer for whom such account is carried, each futures commission merchant shall:

(a) Promptly confirm in writing directly to the customer the execution of any trade originated by the controller of the account and retain a copy of such confirmation in accordance with the requirements of § 1.31; and

(b) Clearly show on each monthly statement, furnished as required by § 1.33, the net unrealized profit or loss in all open contracts figured to the market.

§ 1.34 Monthly record, "point balance".

Each futures commission merchant shall prepare, and keep in accordance with the requirements of § 1.31, a statement, commonly known as a "point balance", which accrues or brings to the official closing price, or settlement price fixed by the clearing organization, all open contracts of customers as of the last business day of each calendar month or of any regular monthly date selected: *Provided, however,* That a futures commission merchant who carries part or all of customers' open contracts with other futures commission merchants on an "instruct basis" will be deemed to have met the requirements of this section as to open contracts so carried if a monthly statement is prepared which shows that the prices and amounts of such contracts long and short in the customers' accounts are in balance with those in the carrying commission merchants' accounts, and such statements are retained in accordance with the requirements of § 1.31.

Any persons who wish to submit written data, views, or arguments on the proposed amendments may do so by filing them with the Administrator, Commodity Exchange Authority, U.S. Department of Agriculture, Washington 25, D.C., within 30 days after publication of this notice in the FEDERAL REGISTER.

Done at Washington, D.C., this 29th day of October 1962.

ALEX C. CALDWELL,
*Administrator,
Commodity Exchange Authority.*

[F.R. Doc. 62-11019; Filed, Nov. 2, 1962;
8:47 a.m.]

DEPARTMENT OF LABOR

Office of the Secretary

[29 CFR Parts 1, 3, 5]

FEDERALLY FINANCED AND ASSISTED CONSTRUCTION

Proposed Revision of Regulations Prescribing Labor Standards

It is hereby proposed pursuant to R.S. 161 (5 U.S.C. 22), section 2 of the Act of June 13, 1934 (40 U.S.C. 276c), section 10 of the Portal-to-Portal Act of 1947 (29 U.S.C. 258), and Reorganization Plan No. 14 of 1950 (3 CFR 1949-53, p. 1007), to amend Title 29 of the Code of Federal Regulations by revising Parts 1, 3, and 5 thereof in the manner indicated below.

The principal changes accomplished by the proposed revision include the following: the establishment of a Wage Appeals Board which shall, among other things, review allegations of error in wage determinations issued under Part 1 and consider debarment cases under Part 5; the insertion in Part 1 of a new procedure for the issuance of wage determinations under the Davis-Bacon Act in the case of construction contracts of the Department of Defense and the General Services Administration, which are to be performed in designated metropolitan areas or armed services installations; the inclusion in Part 1 of all rules relating to the making of wage determinations, the manner of requesting wage determinations, and the use and effectiveness of wage determinations; the addition in Parts 1, 3, and 5 of references to recent statutes containing labor standards provisions and the addition of provisions relating to their administration; the inclusion in Part 3 of all labor standards contract provisions applicable to Federal and Federally assisted construction; a revision of the so-called "anti-kickback" regulations heretofore published in Part 3; some changes in the debarment provisions of Part 5, including a provision for removal of contractors and subcontractors from the ineligible list; and a number of miscellaneous changes in Parts 1, 3, and 5.

Interested persons may submit, prior to December 4, 1962, written data, views, and arguments concerning the proposed revision. Such submissions should be addressed to the Solicitor of Labor, United States Department of Labor, Fourteenth Street and Constitution Avenue NW., Washington 25, D.C.

1. 29 CFR Part 1 would be revised to read as follows:

PART 1—WAGE DETERMINATIONS FOR FEDERAL AND FEDERALLY ASSISTED CONSTRUCTION

Subpart A—General Provisions

- Sec.
1.1 Purpose and scope.
1.2 Definitions.

Subpart B—Procedure for Requesting Wage Determinations

- 1.11 Initial wage determinations.
1.12 Modifications or supersedeas.
1.13 Inadvertences.
1.14 Supplemental wage determinations.
1.15 Additional classifications under the Davis-Bacon Act.

Subpart C—Use and Effectiveness of Wage Determinations

- 1.21 Initial wage determinations.
1.22 Modifications or supersedeas.
1.23 Inadvertences.
1.24 Supplemental wage determinations.
1.25 Additional classifications under the Davis-Bacon Act.

Subpart D—Wage Determinations for Contracts of Department of Defense and General Services Administration for Designated Areas and Installations

- 1.31 Wage determinations for designated areas and installations; issuance and publication.
1.32 Use of wage determinations.

Subpart E—Making of Wage Determinations; Compiling Wage Rate Information

- 1.41 Obtaining and compiling wage rate information.
1.42 Agency notification of contract award or performance.
1.43 Outlines of agency construction programs.
1.44 Scope of consideration.
1.45 Field surveys.
1.46 Hearings.

Subpart F—Appeals From Wage Determinations

- 1.51 Notice of wage determinations.
1.52 Opportunity for review by Wage Appeals Board.
1.53 Disposition by the Board; oral proceedings and other action.

AUTHORITY: §§ 1.1 to 1.53 issued under R.S. 161, 64 Stat. 1267; sec. 2, 48 Stat. 948; sec. 10, 61 Stat. 89; 5 U.S.C. 22, 1332-15; 40 U.S.C. 276c; 29 U.S.C. 258. Interpret or apply sec. 1, 46 Stat. 1494, 49 Stat. 1011; sec. 212 added to c. 847, 48 Stat. 1246 by sec. 14, 53 Stat. 807; sec. 602, added to c. 94, 64 Stat. 77 at 73 Stat. 681; sec. 2, 60 Stat. 1041; sec. 15, 60 Stat. 178; sec. 307(f), 63 Stat. 430; sec. 205, 64 Stat. 973; sec. 310, 65 Stat. 307; sec. 201, 64 Stat. 1248; sec. 3, 72 Stat. 532; sec. 108, 72 Stat. 895; sec. 6, 62 Stat. 1158; sec. 15, 75 Stat. 714; sec. 21, 75 Stat. 613; sec. 15, 75 Stat. 688; 40 U.S.C. 276a; 12 U.S.C. 1701q, 1715c, 1749a; 42 U.S.C. 291h, 1416, 1459, 1592; 49 U.S.C. 1114, 20 U.S.C. 636; 23 U.S.C. 113; 50 U.S.C. App. 2281; 33 U.S.C. 466e.

Subpart A—General Provisions

§ 1.1 Purpose and scope.

This part sets forth the procedure for requesting, using, and the making of wage determinations under the minimum wage provisions of the Davis-Bacon Act, the National Housing Act, the College Housing Act of 1950, the Hospital Survey and Construction Act, the Federal Airport Act, the United States Housing Act of 1937, the Housing Act of 1949, the School Survey and Construction Act of 1950, the Defense Housing and Community Facilities and Services Act of

1951, the Federal-Aid Highway Act of 1956, the Federal Civil Defense Act of 1950, the Federal Water Pollution Control Act, the Area Redevelopment Act, and the Delaware River Basin Compact.

§ 1.2 Definitions.

(a) "Prevailing wage rate" for each classification of laborers and mechanics which the Solicitor shall regard as prevailing in an area means:

(1) The rate of wages paid in the area in which the work is to be performed, to the majority of those employed in that classification in the area in construction similar to the proposed undertaking;

(2) In the event that there is not a majority paid at the same rate, then the rate paid to the greater number: *Provided*, Such greater number constitutes at least 30 percent of those employed; or

(3) In the event that less than 30 percent of those so employed receive the same rate, then the average rate.

(b) "Area" in determining wage rates under the Davis-Bacon Act, and the minimum wage provisions of the other statutes listed in § 1.1 means the city, town, village, or other civil subdivision of the State in which the work is to be performed; except: (1) That in determining wage rates pursuant to section 115 of the Federal-Aid Highway Act of 1956 and the College Housing Act of 1950, "area" means immediate locality of the proposed project, and (2) that whenever there is insufficient evidence for the making of a wage determination for the work involved upon the basis of the wages paid in the city, town, village, or other civil subdivision of the State, the wage rates prevailing in such area may be determined by consideration of such evidence together with additional evidence of the wages paid in a larger locality which includes such area and from which larger locality adequate evidence of wages prevailing in such area on projects of a character similar to the proposed work may be obtained, but in no case will such larger locality include a greater geographical area than is administratively necessary for the making of a wage determination.

(c) "Average rate" for each classification in an area means the rate obtained by adding the hourly rates paid to all workers in the classification and dividing by the total number of such workers.

(d) "Solicitor" means the Solicitor of Labor.

(e) "Modification" means a change in a wage determination which is received by the Federal agency (or a State Highway Department as the case may be) at least 10 days before the opening of bids if the contract award is made within thirty (30) days from the opening of bids, except as provided in § 1.31 with respect to certain contracts of the Department of Defense and the General Services Administration.

(f) "Supersedeas" is a complete wage determination containing extensive modifications.

(g) "Supplemental wage determination" means a wage determination issued under the minimum wage provisions of any of the statutes listed in § 1.1, ex-

cept the Davis-Bacon Act, to include within a contract prevailing wages for classifications of laborers or mechanics not previously included in such contract.

(h) "Inadvertence" means a change in a wage determination to correct inadvertent clerical errors occurring in a wage determination included in a contract.

(i) "Additional classification under the Davis-Bacon Act" means a classification of laborers or mechanics for which a minimum wage is needed in the performance of a contract subject to the Davis-Bacon Act and for which there is no such minimum wage included in the contract.

(j) "Wage determination" means the initial wage determination and any subsequent modification, supersedeas, inadvertence, supplemental wage determination, or additional classification under the Davis-Bacon Act, except where the latter terms are used expressly.

(k) "Contracting officer" means an officer designated to enter into or administer contracts and make related determinations and findings.

Subpart B—Procedure for Requesting Wage Determinations

§ 1.11 Initial wage determinations.

(a) Except as provided in paragraph (b) of this section, any request by a Federal agency (and State Highway Department of any State under the Federal-Aid Highway Act of 1956) for an initial wage determination under any of the various statutes referred to in § 1.1 shall be submitted to the Solicitor of Labor, United States Department of Labor, Washington 25, D.C., not less than forty-five (45) days before the advertisement of the specifications or the beginning of negotiations for any contract for which the determination is requested. Requests will be made on either Department of Labor Form DB-11 or DB-11(a), whichever is appropriate. These forms are available from the Office of the Solicitor, United States Department of Labor.

(b) Whenever an initial wage determination is sought in an emergency situation in which delay in the issuance of a determination will likely result in danger to persons or property, an agency may submit a request for such a wage determination without regard to the time limitation prescribed in paragraph (a) of this section but in the maximum amount of time which the circumstances permit.

(c) This section does not apply to wage determinations for contracts described in § 1.31, except as therein provided.

§ 1.12 Modifications or supersedeas.

Upon his own initiative, the request of a Federal agency (or a State Highway Department under the Federal-Aid Highway Act of 1956), or the request of any interested person, the Solicitor may consider the modification of any wage determination or the issuance of a supersedeas whenever there is a question as to whether any wage rate contained therein is the prevailing wage rate within

the meaning of the applicable statute and this part, or whenever there is a question of whether a prevailing wage rate should be added or omitted from any wage determination.

§ 1.13 Inadvertences.

Upon his own initiative, the request of a Federal agency (or a State Highway Department under the Federal-Aid Highway Act of 1956), or the request of any interested person, the Solicitor may correct any wage determination included in a contract subject to the minimum wage provisions of the statutes listed in § 1.1 by the issuance of an inadvertence whenever he finds such a wage determination contains clerical error.

§ 1.14 Supplemental wage determinations.

Whenever a Federal agency (or a State Highway Department under the Federal-Aid Highway Act of 1956) needs a minimum wage for a classification of laborers or mechanics which is not included in the applicable wage determinations for work under any of the statutes referred to in § 1.1, except the Davis-Bacon Act, such agency shall submit a request to the Solicitor for the making of a supplemental wage determination to provide a minimum wage for such classification.

§ 1.15 Additional classifications under the Davis-Bacon Act.

Whenever a wage determination contained in a contract subject to the Davis-Bacon Act does not contain a minimum wage for a classification of laborers or mechanics which is needed in the performance of the contract, the contracting officer, upon his own initiative or that of the contractor or subcontractor seeking to employ the class of laborers or mechanics in question, and after consultation with such contractor or subcontractor, shall propose a prevailing wage for such an additional classification of laborers or mechanics under the standards of the Davis-Bacon Act and this part. The proposed prevailing wage of the contracting officer shall be subject to prompt review by the head of the Federal agency or his authorized representative. Within ten (10) days following such review, the proposed prevailing wage, including any revision thereof by the head of the agency or his authorized representative, shall be transmitted to the Solicitor for consideration and review. The Solicitor shall be deemed to adopt the proposal as his determination, unless within thirty (30) days from his receipt of the proposal the Solicitor finds that it is not in accordance with the standards of the Davis-Bacon Act and this part; in which event he shall determine the prevailing wage for the classification in question as of the time the contract was awarded.

Subpart C—Use and Effectiveness of Wage Determinations

§ 1.21 Initial wage determinations.

An initial wage determination shall be effective for a period of 120 calendar days from the date of such determination. If the initial wage determination

is not used during this period, it is void, and a new wage determination must be requested.

§ 1.22 Modification or supersedeas.

(a) Except as otherwise provided in paragraph (b) of this section, a modification or supersedeas shall become effective upon its receipt by the Federal agency, unless: (1) It is not received ten (10) days or more before the opening of bids, and (2) the contract is awarded within thirty (30) days from the opening of bids.

(b) When a modification made of a wage determination under the National Housing Act is received after the mortgage is initially endorsed, it shall not be effective if construction begins within thirty days from such endorsement.

(c) The effectiveness of a modification or supersedeas in no case will continue in effect beyond the effective period of the wage determination it changes.

§ 1.23 Inadvertences.

The use of an inadvertence by a Federal agency (or a State Highway Department under the Federal-Aid Highway Act of 1956) is mandatory. An inadvertence shall become effective as of the date of contract award, or, in the case of the National Housing Act, as of the date of the beginning of construction.

§ 1.24 Supplemental wage determination.

A supplemental wage determination shall be effective as of the date of contract award, or, in the case of the National Housing Act, the date of the beginning of construction. Pending the issuance of a supplemental wage determination, the contractor or subcontractor may employ laborers and mechanics in any classification for which minimum wage rates are requested: *Provided*, That adjustments in wages are made, if necessary, when the supplemental wage determination is issued.

§ 1.25 Additional classifications under the Davis-Bacon Act.

Additional classifications and minimum wage rates established under the Davis-Bacon Act pursuant to § 1.15 shall become effective as of the date of the contract award. Before the adoption by the Solicitor of a proposed classification and wage rate or a separate determination by the Solicitor in that regard, laborers and mechanics may be employed in the classification in question provided any necessary adjustments are made upon the basis of the prevailing wage ultimately determined.

Subpart D—Wage Determinations for Contracts of Department of Defense and General Services Administration for Designated Areas and Installations

§ 1.31 Wage determinations for designated areas and installations: issuance and publication.

(a) Generally, no request need be submitted to the Solicitor of Labor for individual wage determinations, for the contracts of the military departments

and agencies which are within the Department of Defense and the General Services Administration which are subject to the Davis-Bacon Act which are to be performed in the areas and installations designated in paragraph (c) of this section and which involve the type or types of construction indicated for those areas and installations. Wage determinations for these areas and installations shall be published in the FEDERAL REGISTER, and shall be kept up-to-date by modifications subsequently published therein. Requests for the issuance of such modifications may be submitted to the Solicitor of Labor in the same manner as requests for modifications generally under § 1.12.

(b) The Solicitor may also notify directly any military department or agency in the Department of Defense or the General Services Administration of any wage determination issued under paragraph (a) of this section whenever prompt notification is necessary to assure the inclusion of current prevailing wages in a contract.

(c) The areas and installations for which wage determinations will be issued under paragraph (a) of this section are as follows:

State, Political Subdivision or Installation, Type of Construction

Alabama:

Jefferson County; general building construction including incidental paving and incidental utilities.

Mobile County; general building construction including incidental paving and incidental utilities.

Alaska: Entire State; all types.

Arizona:

Maricopa County; all types.

Yuma County; all types.

California:

Los Angeles County; all types.

San Bernardino County; all types.

San Diego County; all types.

San Francisco County; all types.

Sacramento County; all types.

Santa Barbara County; all types.

Edwards Air Force Base; all types.

Colorado:

Denver County; all types.

El Paso County; all types.

Connecticut: Hartford County; all types.

Florida:

Duval County; general building construction including incidental paving and incidental utilities.

Dade County; general building construction including incidental paving and incidental utilities.

Cape Canaveral; general building construction including incidental paving and incidental utilities.

Patrick Air Force Base; general building construction including incidental paving and incidental utilities.

Georgia: Fulton County; general building construction including incidental paving and incidental utilities.

Hawaii: Entire State; all types.

Illinois:

Cook County; all types.

Lake County; all types.

Indiana:

Marion County; all types.

St. Joseph County; all types.

Miami County; all types.

Iowa: Polk County; general building construction including incidental paving and incidental utilities.

Kentucky: Jefferson County; general building construction including incidental paving and incidental utilities.

Louisiana:

New Orleans Parish; general building construction including incidental paving and incidental utilities.

Barksdale Air Force Base; general building construction including incidental paving and incidental utilities.

Maine: Cumberland County; general building construction including incidental paving and incidental utilities.

Maryland:

City of Baltimore; general building construction including incidental paving and incidental utilities.

Andrews Air Force Base; general building construction including incidental paving and incidental utilities.

Massachusetts: Suffolk County; all types.

Michigan:

Wayne County; all types.

Ingham County; all types.

Minnesota:

Hennepin County; all types.

Ramsey County; all types.

Mississippi:

Harrison County; general building construction including incidental paving and incidental utilities.

Missouri:

Jackson County; all types.

St. Louis County; all types.

Nebraska:

Douglas County; general building construction including incidental paving and incidental utilities.

New Jersey:

Camden County; all types.

Essex County; all types.

Hudson County; all types.

Mercer County; all types.

New Mexico:

Bernalillo County; general building construction including incidental paving and incidental utilities.

White Sands Proving Grounds; general building construction including incidental paving and incidental utilities.

New York:

New York City (Kings, Queens, Richmond, Bronx, and New York Counties); all types.

Albany County; all types.

Erie County; all types.

Monroe County; all types.

Onondago County; all types.

Ohio:

Cuyahoga County; all types.

Franklin County; all types.

Hamilton County; all types.

Montgomery County; all types.

Oklahoma:

Oklahoma County; general building construction including incidental paving and incidental utilities.

Tulsa County; general building construction including incidental paving and incidental utilities.

Pennsylvania:

Allegheny County; all types.

Dauphin County; all types.

Philadelphia County; all types.

Rhode Island:

Providence County; all types.

Newport County; all types.

Tennessee:

Davidson County; general building construction including incidental paving and incidental utilities.

Hamilton County; general building construction including incidental paving and incidental utilities.

Shelby County; general building construction including incidental paving and incidental utilities.

Texas:

Bexar County; general building construction including incidental paving and incidental utilities.

Dallas County; general building construction including incidental paving and incidental utilities.

Harris County; general building construction including incidental paving and incidental utilities.

Nueces County; general building construction including incidental paving and incidental utilities.

Utah: Salt Lake County; all types.

Virginia:

Henrico County; general building construction including incidental paving and incidental utilities.

Norfolk County; general building construction including incidental paving and incidental utilities.

Washington:

King County; all types.

Pierce County; all types.

Washington, D.C.; all types.

West Virginia: Kanawha County; all types.

Wisconsin: Milwaukee County; all types.

(d) Whenever any of the military departments or agencies within the Department of Defense, or the General Services Administration, has reasonable cause to believe that a wage determination having particular application is necessary for any project because of unusual facts or circumstances, the agency shall request an individual wage determination in the manner prescribed in § 1.11. Such a wage determination shall be effective for the period prescribed in § 1.21.

§ 1.32 Use of wage determinations.

(a) The military departments or agencies within the Department of Defense and the General Services Administration shall insert in each contract subject to the Davis-Bacon Act, not later than ten (10) days before the opening of bids if the contract award is to be made within (30) days thereafter, the most recent applicable wage determination published in the FEDERAL REGISTER or so much of that wage determination as may be necessary or appropriate for the performance of the contract involved.

(b) Minimum wages for classifications not included in the wage determination used shall be obtained in the manner provided in § 1.5.

Subpart E—Making of Wage Determinations; Compiling Wage Rate Information

§ 1.41 Obtaining and compiling wage rate information.

For the purpose of making wage determinations, the Solicitor shall conduct a continuing program for the obtaining and compiling of wage rate information.

(a) The Solicitor shall encourage the voluntary submission of wage rate data by contractors, contractors' associations, labor organizations, public officers, and other interested persons.

(b) The following types of information will be considered in making wage rate determinations:

(1) Statements showing wage rates paid on projects. (Such statements should indicate the names and addresses of contractors, including subcontractors, the locations, approximate costs, dates of construction and types of projects, the number of workers employed in each classification on each project, and the respective wage rates paid such workers);

(2) Signed collective bargaining agreements. (The Solicitor may request the parties to an agreement to submit statements certifying to its scope and application);

(3) Wage rates determined for public construction by State and local officers pursuant to prevailing wage legislation;

(4) Information furnished by State agencies. (In making wage rate determinations pursuant to section 115 of the Federal-Aid Highway Act of 1956, the Solicitor shall consult with the highway department of the State in which a project in the Interstate System is to be performed. Before making a determination of wage rates for such a project he shall give due regard to the information thus obtained);

(5) Any other information pertinent to the determination of prevailing wage rates.

(c) The Solicitor shall supplement such information obtained on a voluntary basis by such means and from whatever sources he deems necessary or appropriate.

(d) Papers and documents containing information, which is obtained under this section and which furnishes the basis for any wage determination, shall be available for public inspection under the procedure prescribed in § 2.6(a) of this subtitle. Copies of such papers and documents may be obtained without regard to the procedure prescribed in § 2.9 of this subtitle. The application of these procedures will ensure that disclosure of the relevant information will be made in a manner which will not be detrimental to the public interest or to any person voluntarily submitting information who requested that such information be held confidential.

§ 1.42 Agency notification of contract award or performance.

Each agency (or State Highway Department under the Federal-Aid Highway Act of 1956) shall notify the Solicitor whenever a contract is awarded or work is performed under any wage determination. The notice shall contain the name of the contractor and the number or citation of the wage determination used.

§ 1.43 Outline of agency construction programs.

To the extent practicable, at the beginning of each fiscal year each agency using wage determinations under any of the various statutes listed in § 1.1 shall furnish the Solicitor with a general outline of its proposed construction programs for the coming year indicating the estimated number of projects for which wage determinations will be required, the anticipated types of construction, and the locations of construction. During the fiscal year, each agency shall notify the Solicitor of any significant changes in its proposed construction programs, as outlined at the beginning of the fiscal year.

§ 1.44 Scope of consideration.

(a) In making a wage rate determination projects currently under construction or recently completed will be considered. Projects completed more

than one year prior to the date of request for the determination may be considered, but need not be.

(b) If there have been no similar construction projects within the vicinity of the proposed project in the year preceding the date of request for the determination, wage rates paid on the nearest similar construction may be considered. See § 1.2(b).

(c) In making wage rate determinations pursuant to section 115 of the Federal-Aid Highway Act of 1956, the information obtained through consultation with the State Highway Department shall be considered, as provided in § 1.41(b)(4).

§ 1.45 Field survey.

Whenever the Solicitor deems that the data at hand are insufficient to make a determination with respect to all the crafts necessary to perform the proposed construction work, he may have a field survey conducted in the area of the proposed project for the purpose of obtaining sufficient information upon which to make a determination of wage rates.

§ 1.46 Hearings.

(a) *General.* Whenever he deems it necessary or appropriate, the Solicitor may direct a hearing to be held. He shall designate a hearing examiner who shall, after notice to persons known or expected to be interested, proceed to the project area and make such investigations and conduct such hearings as may be necessary to make a determination of wage rates for the project.

(b) *Prehearing conferences.* When it appears that a prehearing conference will expedite proceedings, the examiner prior to the hearing may request representatives of the persons to attend a conference to consider such matters as may expedite the hearing.

(c) *Hearing examiner's decision.* The hearing examiner shall make a written decision which shall include: (1) A statement of the procedure that he has followed; (2) a brief summary of the evidence; and (3) the reasons for decision.

(d) *Submission of hearing examiner's decision to interested persons.* A copy of the hearing examiner's decision shall be furnished to the Solicitor so that a wage determination in accordance therewith may be made, and a copy shall be mailed to each person who has filed an appearance and to any other persons who have expressed an interest in the proceedings by submitting written data, views, or argument.

(e) *Exceptions of interested persons.* Any interested person may within ten (10) days after receipt of the hearing examiner's decision file exceptions thereto. Such exceptions shall be filed with the Executive Secretary of the Wage Appeals Board, Department of Labor, Washington 25, D.C.

(f) The Wage Appeals Board's decision shall be final.

Subpart F—Appeals From Wage Determinations

§ 1.51 Notice of wage determinations.

To the extent practicable, the officer in charge of the Division of Wage Determinations shall notify each person

known to be interested or expected to be interested in any wage determination of the issuance of such determination, and furnish him with a copy thereof. Notice under this section shall not be necessary whenever pursuant to § 1.31 a wage determination is published in the FEDERAL REGISTER or whenever pursuant to § 1.46 (d) a wage determination is made as a result of a hearing examiner's decision.

§ 1.52 Opportunity for review by Wage Appeals Board.

After the submission of a request for a change in the initial wage determination under § 1.12 or § 1.13 and within ten days from the date of any action taken or declined pursuant to the request, any interested person shall have the opportunity to submit to the Wage Appeals Board, established under Part 5 of this subtitle, written data, views, and arguments indicating why such wage determination should be changed, except where the determination is made as a result of a hearing examiner's decision, in which instance the opportunity shall be for the submission of exceptions as provided in § 1.46(e).

§ 1.53 Disposition by the Board; oral proceedings and other action.

(a) The Board shall consider all relevant matter presented under § 1.52, and shall dispose of the case in one of the ways prescribed in paragraphs (b), (c), or (d) of this section, except where a wage determination is made as a result of a hearing examiner's decision, in which case paragraph (e) shall apply. The Board shall dispose of cases as expeditiously as practicable.

(b) Whenever a wage determination is found to be clearly erroneous upon the basis of the presentation made, the Board shall forthwith direct the officer in charge of the Division of Wage Determinations to make promptly any appropriate change.

(c) Whenever the presentation is found to present only irrelevant, immaterial, or repetitious information, whenever, even when the presentation is considered in its best light, no change in the wage determination would be warranted under the applicable statute and this part, whenever action by the Board would not effectuate the purposes of the minimum wage statute involved, or whenever the presentation is not made within a reasonable time, the Board shall make no change in the wage determination, and shall notify the person requesting review of the decision.

(d) (1) Whenever a presentation is not handled under paragraphs (b), (c), or (e), of this section, the Board shall promptly hold an oral proceeding. All known interested persons, including the Division of Wage Determinations, shall have an opportunity to be heard on any issue or issues raised by the presentations made under § 1.52 and any other issues considered relevant by the Board.

(2) In such an oral proceeding, the Board shall decide the issue or issues involved by applying a preponderance of the evidence test. Whenever the Board decides that a change in the wage deter-

mination should be made, it shall forthwith direct the officer in charge of the Division of Wage Determinations to take appropriate action.

(3) The Chairman shall regulate the course of any oral proceeding; dispose of procedural requests, objections, and related matters; and confine the hearing to the matters for which the Board is responsible. In the discretion of the Board, any hearing may be stenographically reported. When a proceeding is so reported copies of the transcript may be obtained upon such terms as the Chairman may provide.

(4) Upon timely notice to the requesting agency, the Board may suspend the application of the wage determination pending its disposition under this paragraph of the matters in issue.

(e) Whenever exceptions are filed to a hearing examiner's decision under § 1.46, the Board shall rule upon such exceptions. If the Board decides that a change should be made upon the basis of such exceptions, it shall direct the officer in charge of the Division of Wage Determinations to take appropriate action.

2. 29 CFR Part 3 would be amended to read as follows:

PART 3—LABOR STANDARDS CONTRACT PROVISIONS AND RELATED REGULATIONS APPLICABLE TO FEDERAL AND FEDERALLY ASSISTED CONSTRUCTION

Subpart A—General Provisions

- Sec.
3.1 Purpose and scope.
3.2 Definitions.

Subpart B—Labor Standards Clauses

- 3.11 General.
3.12 Minimum wages.
3.13 Payrolls and payroll records.
3.14 Withholding.
3.15 Apprentices.
3.16 Subcontracts.
3.17 Contract termination; debarment.
3.18 Overtime under Contract Work Hours Standards Act.
3.19 Overtime under Title VIII of the National Housing Act.
3.20 Weekly statement under the Copeland Act with respect to the payment of wages; form to be used.

Subpart C—"Anti-Kickback" Regulations

- 3.31 Payroll records from which weekly statements are prepared; maintenance and retention.
3.32 Procedure governing the submission of weekly statements.
3.33 Examination, investigation, and preservation of weekly statements by the Federal agency.
3.34 Methods of payment of wages.
3.35 Payroll deductions permissible without the approval of the Solicitor of Labor.
3.36 Payroll deductions permissible with the approval of the Solicitor of Labor.
3.37 Applications for the approval of the Solicitor of Labor.
3.38 Action by the Solicitor of Labor upon applications.
3.39 Prohibited payroll deductions.

AUTHORITY: §§ 3.1 to 3.39 issued under sec. 2, 48 Stat. 948; Reorg. Plan No. 14 of 1950, 64 Stat. 1267; sec. 10, 61 Stat. 89; 29 U.S.C. 258; 40 U.S.C. 276c, 5 U.S.C. 133z-15.

Subpart A—General Provisions**§ 3.1 Purpose and scope.**

(a) Subpart B of this part prescribes the labor standards clauses to be inserted in contracts subject to the labor standards provisions of any of the statutes subject to Reorganization Plan No. 14 of 1950. The statutes which are subject to the Plan and their pertinent labor standards provisions are as follows: The Davis-Bacon Act (40 U.S.C. 276a-276a-7), including the Federal-Aid Highway Act of 1956 (23 U.S.C. 113), Copeland Act (40 U.S.C. 276c), The Contract Work Hours Standards Act (secs. 101-105, 76 Stat. 357-360), National Housing Act (12 U.S.C. 1701q, 1703, 1708-1711, 1713, 1715a, 1715k, 1715l(d) (4), 1715v, 1715w, 1715e, 1716, 1743, 1747, 1748b, 1748h-2, 1750g), the Hospital Survey and Construction Act (42 U.S.C. 291h), the Federal Airport Act (49 U.S.C. 1114), Housing Act of 1949 (42 U.S.C. 1459), School Survey and Construction Act of 1950 (20 U.S.C. 636), Defense Housing and Community Facilities and Services Act of 1951 (42 U.S.C. 1592i), the United States Housing Act of 1937 (42 U.S.C. 1416), Federal Civil Defense Act of 1950 (50 U.S.C. App. 2281), Area Redevelopment Act (sec. 21, 75 Stat. 61), and Delaware River Basin Compact (sec. 15.1, 75 Stat. 714). The prescribed clauses are intended to assure consistency in the enforcement of labor standards provisions of the statutes listed in the preceding sentence.

(b) Subpart C prescribes "anti-kick-back" regulations under section 2 of the Act of June 13, 1934, as amended (40 U.S.C. 276c), popularly known as the Copeland Act. This subpart applies to and is to be made a part of any contract which is subject to Federal wage standards and which is for the construction, prosecution, completion, or repair of public buildings, public works or buildings or works financed in whole or in part by loans or grants from the United States. The subpart is intended to aid in the enforcement of the minimum wage provisions of the Davis-Bacon Act and the various statutes dealing with Federally-assisted construction that contain similar minimum wage provisions, including those provisions which are not subject to Reorganization Plan No. 14 (e.g., the College Housing Act of 1950, the Federal Water Pollution Control Act), and in the enforcement of the overtime provisions of the Contract Work Hours Standards Act. The subpart details the obligation of contractors and subcontractors relative to the maintenance and preservation of payroll and other records and the weekly submission of statements regarding the wages paid on work covered thereby; sets forth the circumstances and procedures governing the making of payroll deductions from the wages of those employed on such work; and delineates the methods of payment permissible on such work.

§ 3.2 Definitions.

(a) "Building" or "work" generally include structures and improvements as distinguished from materials, articles, supplies, or equipment. The terms include without limitation, buildings,

structures, and improvements of all types, such as bridges, dams, office buildings, warehouses, plants, hangers, scaffolds, towers, fences, highways, parkways, parking lots, streets, subways, tunnels, mines, wells, shafts, sewers, mains, power lines, pumping stations, airports, terminals, docks, piers, wharves, ways, lighthouses, buoys, jetties, breakwaters, levees, canals, and channels.

(b) "Construction", "prosecution", "completion", or "repair" mean all types of work done on a particular building or work at the site thereof or under the Housing Act of 1949, as amended, in the construction or development of the project, including without limitation, altering, remodeling, painting and decorating, installing machinery or equipment, the transporting of materials and supplies to or from the building or work by the employees of the construction contractor or construction subcontractor, and the manufacturing or furnishing of materials, articles, supplies or equipment on the site of the building or work, or under the Housing Act of 1949, as amended, in the construction or development of the project, by persons employed by the contractor or subcontractor. A mere token beginning of the work shall not be deemed to the "beginning of construction" as that term is used in the National Housing Act.

(c) "Public building" or "public work" include building or work, the construction, prosecution, completion, or repair of which is carried on directly by authority of or with funds of a Federal agency to serve the interest of the general public regardless of whether title thereof is in a Federal agency.

(d) "Buildings or works financed in whole or in part by loans or grants from the United States" includes building or work for whose construction, prosecution, completion, or repair, payment or part payment is made directly or indirectly from funds provided by loans or grants by a Federal agency. The term does not include building or work for which Federal assistance is limited solely to loan guarantees or insurance.

(e) "Contractor", "subcontractor": A contractor means any person (or firm) holding a contract with a Federal agency or with a State, local agency, sponsor, or owner, as the case may be. A "subcontractor" means any person (or firm) who enters into a binding legal obligation to perform all or any part of the work called for under a contract.

(f) "Employed", "wages": any person paid by a contractor or subcontractor in any manner for his labor on the construction, prosecution, completion, or repair of a public building or public work, or building or work financed in whole or in part by loans, grants from the United States, or assisted by loan guarantees by the United States, is "employed" and receiving "wages", regardless of any contractual relationship alleged to exist. Any person performing such labor under promise of payment thereof from a contractor or subcontractor is "employed" and entitled to "wages" even though he has not yet been paid.

(g) "Apprentice" means a person who is indentured and employed under a bona

fide apprenticeship program, and individually registered by the program sponsor with a State Apprenticeship Council or Agency which is recognized by the Federal Committee on Apprenticeship, United States Department of Labor, or, if no recognized council or Agency exists in a State, with the Bureau of Apprenticeship and Training, United States Department of Labor.

(h) "Wage determination" includes the initial wage determination and any subsequent modification, supersedeas, inadvertence, additional classification under the Davis-Bacon Act, or supplemental wage determination.

(i) "Federal agency" means any authority of the United States which awards contracts or provides Federal assistance, and which has responsibilities with respect to the enforcement of the labor standards provisions of any of the statutes listed in § 3.1(a).

(j) "Head of the agency" means the chief officer of any Federal agency or his authorized representative.

(k) "Affiliated person" includes a spouse, child, parent, or other close relative of the contractor or subcontractor; a partner, officer, or person controlling a substantial portion of the stock of the contractor or subcontractor, or a corporation closely connected with the contractor or subcontractor as parent, subsidiary, or otherwise, and an officer, agent, or a person controlling a substantial portion of the stock of such corporation.

(l) "Secretary" means the Secretary of Labor or his authorized representative, and includes the Solicitor of Labor.

Subpart B—Labor Standards Clauses**§ 3.11 General.**

(a) The Head of the Agency shall cause or require to be physically inserted in any contract subject to the labor standards provisions of any of the acts listed in § 3.1(a) the applicable clauses contained in this subpart or any modifications thereof to meet particular needs of the agency that may be approved by the Secretary under § 5.17 of this subtitle.

(b) Whenever any such clause refers to other clauses contained in this subpart, the Head of the Agency may, in the alternative, refer to the clauses contained in the contract which are identical with those referred to in this subpart. Incorporation by reference of the applicable clauses is not compliance with this section.

(c) In the case of construction of a dwelling or dwellings insured under 12 U.S.C. 1715v or 1715w, the provisions of this subpart apply, except that compliance with §§ 3.12 through 3.17 may be waived by the Federal Housing Commissioner in cases or classes of cases where laborers or mechanics, not otherwise employed at any time on the project, voluntarily donate their services without full compensation for the purpose of covering the cost of construction and the Federal Housing Commissioner determines that any amounts saved thereby are fully credited to the nonprofit corporation, association, or other organization undertaking the construction.

§ 3.12 Minimum wages.

(a) As required by § 3.11 the following clause shall be inserted in every contract subject to any minimum wage provisions contained in the statutes listed in § 3.1(a).

All mechanics and laborers employed or working (under the Davis-Bacon Act: directly upon the site of the work) (under the Hospital Survey and Construction Act, the School Survey and Construction Act, the Federal Airport Act, section 212 of the National Housing Act, or the Federal Civil Defense Act of 1950: in the construction of the project or work involved) (under the Housing Act of 1949 and the United States Housing Act of 1937: in the development of the project involved) (under the Defense Housing and Community Facilities and Services Act: on the work involved) (under the Federal-Aid Highway Act of 1956: in the initial construction work involved) (under the Area Redevelopment Act and the Delaware River Basin Compact: on the project involved) (under section 212 of the National Housing Act: in construction of the assisted housing) will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by the "anti-kickback" regulations of the Secretary of Labor (29 CFR 3.31-3.39)), the full amounts due at time of payment computed at wage rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof regardless of any contractual relationship which may be alleged to exist between the contractor or subcontractor and such laborers and mechanics; and the wage determination shall be posted by the contractor at the site of the work in a prominent place where it can be easily seen by the workers.

(b) As required by § 3.11, the following clause shall be inserted in every contract subject to the Davis-Bacon Act.

Whenever the wage determination of the Secretary of Labor which is attached hereto and made a part hereof does not contain a minimum wage for a classification of laborers or mechanics which is needed in the performance of the contract, the contracting officer, upon his own initiative or that of the contractor or subcontractor seeking to employ the class of laborers or mechanics in question, and after consultation with such contractor or subcontractor, shall propose a prevailing wage for such additional classification of laborers or mechanics under the standards of the Davis-Bacon Act and 29 CFR Part 1. The proposed prevailing wage of the contracting officer shall be subject to prompt review by the head of [write in the name of the Federal agency] or his authorized representative. Within ten (10) days following such review, the proposed prevailing wage, including any revision thereof by the head of the agency or his authorized representative, shall be transmitted to the Secretary of Labor for consideration and review. The Secretary shall be deemed to adopt the proposal as his determination, unless within thirty (30) days from his receipt of the proposal the Secretary finds that it is not in accordance with the standards of the Davis-Bacon Act and 29 CFR Part 1; in which event he shall determine the prevailing wage for the classification in question as of the time the contract was entered into.

§ 3.13 Payrolls and payroll records.

As required by § 3.11, the following clauses shall be inserted in every contract subject to the labor standards provisions

of any of the statutes listed in § 3.1(a).

(a) Payroll and basic payroll records will be maintained during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics employed or working (under the Davis-Bacon Act: directly upon the site of the work) (under the Hospital Survey and Construction Act, the School Survey and Construction Act, the Federal Airport Act, section 212 of the National Housing Act, or the Federal Civil Defense Act of 1950: in the construction of the project or work involved) (under the Housing Act of 1949 and the United States Act of 1937: in the development of the project involved) (under the Defense Housing and Community Facilities and Services Act: on the work involved) (under the Federal-Aid Highway Act of 1956: in the initial construction work involved) (under the Area Redevelopment Act and the Delaware River Basin Compact: on the project involved) (under section 212 of the National Housing Act: in construction of the assisted housing) (under the Contract Work Hours Standards Act: in any workweek in which they are employed on the work involved). Such records will contain the name and address of each such laborer or mechanic, his correct classification, rate of pay, daily and weekly number of hours worked, deductions made and actual wages paid.

(b) The contractor will submit weekly a copy of all payrolls to the (write in name of appropriate Federal agency) if the agency is a party to the contract but if the agency is not such a party the contractor will submit the payrolls to the applicant, sponsor, or owner, as the case may be, for transmission to the (write in name of agency). The copy shall be accompanied by a statement of the contractor indicating that the payrolls are correct and complete; that the wage rates contained therein are not less than those determined by the Secretary of Labor; and that the classifications set forth for each laborer or mechanic conform with the work he performed. A submission of the "Weekly Statement of Compliance" which is required under this contract and the regulations of the Secretary of Labor (29 CFR 3.20) shall satisfy this latter requirement. The contractor will make his employment records available for inspection by authorized representatives of the (write in name of agency) and the Department of Labor, and will permit such representatives to interview laborers and mechanics during working hours on the job.

§ 3.14 Withholding of wages.

As required by § 3.11, the following clause shall be inserted as a condition in every contract subject to the labor standards provisions of any of the statutes listed in § 3.1(a).

The (write in name of Federal agency) may withhold or cause to be withheld from the contractor so much of the accrued payments or advances as may be determined administratively to be necessary to pay laborers and mechanics employed by the contractor or any subcontractor on the work the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic all or part of the wages required by the contract, the (Agency) may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, or advance, until such violations have ceased.

§ 3.15 Apprentices.

As required by § 3.11, the following clause shall be inserted in every contract subject to the labor standards provisions

of any of the statutes listed in § 3.1(a), except where the contract is subject only to the Contract Work Hours Standards Act and the "anti-kickback" regulations (§§ 3.31-3.39).

Apprentices will be permitted to work as such only under a bona fide apprenticeship program registered with a State apprenticeship council or agency which is recognized by the Federal Committee on Apprenticeship, United States Department of Labor; or, if no such recognized council or agency exists in a State, under a program registered with the Bureau of Apprenticeship and Training, United States Department of Labor. The allowable ratio of apprentices to journeymen in any craft classification employed on a contract subject to Reorganization Plan No. 14 of 1950 (5 U.S.C. 1332-15 note) shall not be greater than the ratio permitted to the contractor as to his entire work force under an applicable collective bargaining agreement, or, in the absence of such an agreement, under the registered program. Any employee listed on a payroll at an apprentice wage rate, who is not registered, shall be paid the wage rate determined by the Secretary of Labor for the classification of the work he actually performed.

§ 3.16 Subcontracts.

As required by § 3.11, the following clause shall be inserted in every contract subject to the labor standards provisions of any of the statutes listed in § 3.1(a).

The contractor will insert in any subcontracts any of the clauses contained in 29 CFR 3.12 through 3.15 and in 29 CFR 3.17 through 3.20 which apply to his contract, and such other clauses as the (write in name of Federal agency) may by appropriate instructions require, and also a clause requiring the subcontractors to include any of the clauses contained in 29 CFR 3.12 through 3.15 and in 29 CFR 3.17 through 3.20 which are applicable to their subcontracts in any lower tier subcontracts which they may enter into, together with a clause requiring this insertion in any further subcontracts that may in turn be made.

§ 3.17 Contract termination; debarment.

As required by § 3.11, the following clause shall be inserted in every contract subject to the labor standards provisions of any of the statutes listed in § 3.1(a).

In the event of a contractor's or subcontractor's noncompliance with the labor standards clauses of his contract, the contract may be cancelled in whole or in part, and the contractor or subcontractor may be debarred, as provided in 29 CFR 5.4.

§ 3.18 Overtime under Contract Work Hours Standards Act.

(a) As required by § 3.11, the clause set forth in the following paragraphs of this section shall be inserted as a condition in any contract subject to the Contract Work Hours Standards Act. As used in this section, the terms "laborers" and "mechanics" include watchmen and guards.

(1) *Overtime requirements.* No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any laborer or mechanic in any workweek in which he is employed on such work to work in excess of eight hours in any calendar day or in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times his basic rate of pay for all hours

worked in excess of eight hours in any calendar day or in excess of forty hours in such workweek, whichever is the greater number of overtime hours.

(2) *Violations; liability for unpaid wages; liquidated damages.* In the event of any violation of the clause set forth in subparagraph (1), the contractor and any subcontractor responsible therefor shall be liable to any affected employee for his unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed, with respect to each individual laborer or mechanic employed in violation of the clause set forth in subparagraph (1), in the sum of \$10 for each calendar day on which such employee was required or permitted to work in excess of eight hours or in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in subparagraph (1).

(3) *Withholding for unpaid wages and liquidated damages.* The [write in the name of the Federal agency] may withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor, such sums as may administratively be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in clause (2).

(b) In any contract required to contain the clause set forth in § 3.14, the Federal Agency may modify the clause in subparagraph (3) of paragraph (a) of this section so as to refer only to the withholding and determination of sums for liquidated damages.

§ 3.19 Overtime under Title VIII of the National Housing Act.

In contracts subject to Title VIII of the National Housing Act, the Agency Head shall cause or require inclusion of the following clause:

Every laborer and mechanic employed by the contractor or any subcontractor engaged in the construction of the project shall receive compensation at a rate of not less than one and one-half times his basic or regular rate of pay for all hours worked in any workweek in excess of eight hours in any workday or forty hours in the workweek, as the case may be.

§ 3.20 Weekly statement under the Copeland Act with respect to the payment of wages; form to be used.

As required by § 3.11, the following clause shall be inserted in any contract subject to the Copeland Act. Also, under § 3.16, contractors are required to include the clauses in any subcontracts.

Each contractor (or subcontractor) engaged in the construction, prosecution, completion, or repair of any public building or public work, or building or work financed in whole or in part by loans or grants from a Federal agency, shall furnish each week a statement with respect to the wages paid to each person employed on such work during the preceding weekly payroll period. The statement shall be executed by the contractor (or subcontractor) or by any authorized officer or employee of the contractor (or subcontractor) who supervised the payment of wages, and shall be in the following form:

WEEKLY STATEMENT OF COMPLIANCE

I, _____, 19____,
(Name of signatory party)
_____, do hereby state:
(Title)

(1) That I pay or supervise the payment of the persons employed by _____

(Contractor or subcontractor)
on the _____; that during
(Building or work)

the payroll period commencing on the _____ day of _____, 19____, and ending on the _____ day of _____, 19____, all persons employed on said project have been paid the full weekly wages earned, that no rebates have been or will be made either directly or indirectly to or on behalf of said _____ from the

(Contractor or subcontractor)
full weekly wages earned by any person and that no deductions have been made either directly or indirectly from the full wages earned by any person, other than permissible deductions as defined in Regulations, Part 3 (29 CFR Part 3), issued by the Secretary of Labor under the Copeland Act, as amended (48 Stat. 948, 63 Stat. 108, 72 Stat. 967; 76 Stat. 537; 40 U.S.C. 276c), and described below:

(Paragraph describing deductions, if any)

(2) That any payrolls otherwise under this contract required to be submitted for the above period are correct and complete; that the wage rates for laborers or mechanics contained therein are not less than the applicable wage rates contained in any wage determination incorporated into the contract; that the classifications set forth therein for each laborer or mechanic conform with the work he performed.

(Signature and title)

Section 1001 of Title 18 of the United States Code (Criminal Code and Criminal Procedure) shall apply to such statements as provided at 72 Stat. 967 (18 U.S.C. 1001, among other things, provides that whoever knowingly and willfully makes or uses a document or writing containing any false, fictitious or fraudulent statement or entry, in any matter within the jurisdiction of any department or agency of the United States, shall be fined not more than \$10,000 or imprisoned not more than five years, or both).

Subpart C—"Anti-Kickback" Regulations

§ 3.31 Payroll records from which weekly statements are prepared; maintenance and retention.

Each contractor or subcontractor shall maintain and preserve for three years copies of the payrolls and basic payroll records (such as individual earnings records, from which payrolls are prepared) from which the weekly statements required under § 3.20 are prepared. The records of the contractor or subcontractor shall show the information required under § 3.13. Copies of payrolls and basic payroll records shall be available for inspection by authorized representatives of the administering agency and the Department of Labor during normal business hours.

§ 3.32 Procedure governing the submission of weekly statements.

Each weekly statement shall be delivered by the contractor or subcontractor,

within seven (7) days after the regular payment date for the payroll period covered thereby, to a representative of the Federal or State agency in charge at the site of the building or work, or if there is no representative of the Federal or State agency at the site of the building or work, the statement shall be mailed by the contractor or subcontractor, within the above seven-day period, to the Federal or State agency contracting for or financing the building or work. In the event statements are submitted to State agencies, such State agencies shall, in turn, forward the statements to the Federal agency involved.

§ 3.33 Examination, investigation, and preservation of weekly statements by the Federal agency.

The Federal agency receiving the weekly statements of contractors or subcontractors shall examine such statements; conduct such investigations as may be necessary as provided in §§ 5.6 and 5.7 of this subtitle; and preserve such statements for a period of three years from the date of completion of the contract, as provided in § 5.6 of this subtitle.

§ 3.34 Methods of payment of wages.

The payment of wages shall be by cash, negotiable instruments payable on demand, or the additional forms of compensation for which deductions are permissible under this subpart. No other methods of payment shall be recognized on work subject to the Copeland Act.

§ 3.35 Payroll deductions permissible without the approval of the Solicitor of Labor.

Deductions made under the circumstances or in the situations described in the following paragraphs of this section may be made without application to and approval by the Solicitor of Labor:

(a) Any deduction made in compliance with the requirements of Federal, State, or local law, such as Federal or State withholding income taxes and Federal social security taxes.

(b) Any deduction of sums previously paid to the employee as a bona fide prepayment of wages where such prepayment is made without discount or interest. A "bona fide prepayment of wages" is considered to have been made only when cash or its equivalent has been advanced to the person employed in such a manner as to give him complete freedom of disposition of the advanced funds.

(c) Any deduction of amounts required by court process to be paid to another, unless, the deduction is in favor of the contractor, subcontractor, or any affiliated person, or where collusion or collaboration exists.

(d) Any deduction constituting a contribution on behalf of the person employed to funds established by the employer or representatives of employees, or both, for the purpose of providing, either from principal or income, or both, medical or hospital care, pensions or annuities on retirement, death benefits,

PROPOSED RULE MAKING

compensation for injuries, illness, accidents, sickness, or disability, or for insurance to provide any of the foregoing, or unemployment benefits, vacation pay, savings accounts, or similar payments for the benefit of employees, their families, and dependents: *Provided, however,* That the following standards are met: (1) The deduction is not otherwise prohibited by law; (2) it is either: (i) voluntarily consented to by the employee in writing and in advance of the period in which the work is to be done and such consent is not a condition either for the obtaining of or for the continuance of employment, or (ii) provided for in a bona fide collective bargaining agreement between the contractor or subcontractor and representatives of its employees; (3) no profit or other benefit is otherwise obtained, directly or indirectly, by the contractor or subcontractor or any affiliated person in the form of commission, dividend, or otherwise; and (4) the deductions shall serve the convenience and interest of the employee.

(e) Any deduction contributing toward the purchase of United States Defense Stamps and Bonds when voluntarily authorized by the employee.

(f) Any deduction requested by the employee to enable him to repay loans to or to purchase shares in credit unions organized and operated in accordance with Federal and State credit union statutes.

(g) Any deduction voluntarily authorized by the employee for the making of contributions to governmental or quasi-governmental agencies, such as the American Red Cross.

(h) Any deduction voluntarily authorized by the employee for the making of contributions to Community Chests, United Givers Funds, and similar charitable organizations.

(i) Any deduction to pay regular union initiation fees and membership dues, not including fines or special assessments: *Provided, however,* That a collective bargaining agreement between the contractor or subcontractor and representatives of its employees provides for such deductions, and the deductions are not otherwise prohibited by law.

(j) Any deduction not more than for the "reasonable cost" of board, lodging, or other facilities meeting the requirements of section 3(m) of the Fair Labor Standards Act of 1938 and Part 531 of this title. When such a deduction is made the additional records required under § 516.25(a)(1) of this title shall be kept.

§ 3.36 Payroll deductions permissible with the approval of the Solicitor of Labor.

Any contractor or subcontractor may apply to the Solicitor of Labor for permission to make any deduction not permitted under § 3.35. The Solicitor may grant such permission whenever he finds that:

(a) The contractor, subcontractor, or any affiliated person does not make a profit or benefit directly or indirectly from the deduction either in the form of a commission, dividend, or otherwise;

(b) The deduction is not otherwise prohibited by law;

(c) The deduction is either (1) voluntarily consented to by the employee in writing and in advance of the period in which the work is to be done and such consent is not a condition either for the obtaining of employment or its continuance, or (2) provided for in a bona fide collective bargaining agreement between the contractor or subcontractor and representatives of its employees; and

(d) The deduction serves the convenience and interest of the employee.

§ 3.37 Applications for the approval of the Solicitor of Labor.

Any application for the making of payroll deductions under § 3.20 shall comply with the requirements prescribed in the following paragraphs of this section:

(a) The application shall be in writing and shall be addressed to the Solicitor of Labor.

(b) The application shall identify the contract or contracts under which the work in question is to be performed. Permission will be given for deductions only on specific, identified contracts, except upon a showing of exceptional circumstances.

(c) The application shall state affirmatively that there is compliance with the standards set forth in the provisions of § 3.36. The affirmation shall be accompanied by a full statement of the facts indicating such compliance.

(d) The application shall include a description of the proposed deduction, the purpose to be served thereby, and the classes of laborers or mechanics from whose wages the proposed deduction would be made.

(e) The application shall state the name and business of any third person to whom any funds obtained from the proposed deductions are to be transmitted, and the affiliation of such person, if any, with the applicant.

§ 3.38 Action by the Solicitor of Labor upon applications.

The Solicitor of Labor shall decide whether or not the requested deduction is permissible under provisions of § 3.36; shall notify the applicant in writing of his decision; and shall furnish a copy of the decision to the Federal agency involved.

§ 3.39 Prohibited payroll deductions.

Deductions not elsewhere provided for by this subpart and which are not found to be permissible under § 3.36, are prohibited.

3. 29 CFR Part 5 would be revised to read as follows:

PART 5—ENFORCEMENT OF LABOR STANDARDS APPLICABLE TO FEDERALLY FINANCED AND ASSISTED CONSTRUCTION

Subpart A—General

- | | |
|------|---|
| Sec. | |
| 5.1 | Purpose and scope. |
| 5.2 | Definitions. |
| 5.3 | Agency responsibility for insertion of labor standards contract provisions. |
| 5.4 | Debarment. |
| 5.5 | Procedure in debarment cases; reinstatement. |

- | | |
|------|---|
| Sec. | |
| 5.6 | Agency payroll examinations; preservation of submitted payrolls. |
| 5.7 | Agency investigations. |
| 5.8 | Agency enforcement reports. |
| 5.9 | Contract termination reports. |
| 5.10 | Suspension of funds. |
| 5.11 | Restitution. |
| 5.12 | Criminal proceedings. |
| 5.13 | Department of Labor investigations. |
| 5.14 | Disputes; hearings. |
| 5.15 | Review of recommendations for appropriate adjustment in liquidated damages under the Contract Work Hours Standards Act. |
| 5.16 | Rulings and interpretations. |
| 5.17 | Variations, tolerances, and exemptions from Parts 1 and 3 of this subtitle and this part. |
| 5.18 | Limitations, variations, tolerances, and exemptions under the Contract Work Hours Standards Act. |

Subpart B—Wage Appeals Board

- | | |
|------|---|
| 5.20 | Purpose. |
| 5.21 | Composition; voting. |
| 5.22 | Authority and jurisdiction; procedural rules. |
| 5.23 | Department counsel. |
| 5.24 | Executive Secretary. |
| 5.25 | Conferences. |

AUTHORITY: §§ 5.1 to 5.25 issued under Reorg. Plan No. 14 of 1950, 64 Stat. 1267; sec. 2, 48 Stat. 948; sec. 10, 61 Stat. 89; 5 U.S.C. 1332-15, 29 U.S.C. 258; 40 U.S.C. 276c.

Subpart A—General

§ 5.1 Purpose and scope.

The regulations in this part provide for coordination of the administration and for consistency in the enforcement of labor standards provisions in each of the following acts by the Federal agencies responsible for their administration; i.e.:

- Davis-Bacon Act (40 U.S.C. 276a-276a-7), and as extended to the Federal-Aid Highway Act of 1956 (23 U.S.C. 113).
- Copeland Act (40 U.S.C. 276c).
- Contract Work Hours Standards Act (secs. 101-106, 76 Stat. 357-360).
- National Housing Act (12 U.S.C. 1701g, 1703, 1708-1711, 1713, 1715a, 1715k, 1715l (d) (4), 1715v, 1715w, 1715e, 1716, 1743, 1747, 1748b, 1748h-2, 1750g).
- Hospital Survey and Construction Act (42 U.S.C. 291h).
- Federal Airport Act (49 U.S.C. 114).
- United States Housing Act of 1937 (42 U.S.C. 1416).
- Housing Act of 1949 (42 U.S.C. 1459).
- School Survey and Construction Act of 1950 (20 U.S.C. 636).
- Defense Housing and Community Facilities and Services Act of 1951 (42 U.S.C. 1592i).
- Federal Civil Defense Act of 1950 (50 U.S.C. App. 2281).
- Area Redevelopment Act (sec. 21, 75 Stat. 61).
- Delaware River Basin Compact (sec. 15.1, 75 Stat. 714).

§ 5.2 Definitions.

(a) "Head of the Agency" means the chief officer of any Federal agency, the Commissioners of the District of Columbia or their authorized representatives.

(b) "Contract" means the establishment of a binding legal relation obligating a contractor to perform all or any part of the work involved in the construction, prosecution, completion, or repair of a public building or public work or the work involved in the construction, prosecution, completion, or repair of a

building or work financed in whole or in part by loans or grants or assisted by loan guarantees from the United States. In addition, when used in reference to the Contract Work Hours Standards Act the term includes any binding legal relation which may require or involve the employment of laborers or mechanics (including watchmen or guards).

(c) "Federal agency" means any authority of the United States which awards contracts or which provides Federal assistance, and which has responsibilities with respect to the enforcement of the labor standards provisions of any of the statutes listed in § 5.1.

(d) "Secretary" means the Secretary of Labor or, except in §§ 5.21, 5.22, and 5.24, his authorized representative, and includes the Solicitor of Labor.

§ 5.3 Agency responsibility for insertion of labor standards contract provisions.

It shall be the responsibility of the Federal agency to ascertain whether the contract clauses required by Part 3 of this subtitle have been inserted in contracts and subcontracts to which they apply. Agencies which do not directly enter into such contracts shall promulgate the necessary regulations or procedures to require that such contracts contain the clauses required by Part 3 of this subtitle or such modifications thereof which have been approved by the Secretary. No payment, advance, grant, loan, or guarantee of funds shall be approved by the Federal agency after the beginning of construction unless there is on file with the agency a certification by the contractor that he and his subcontractors have complied or that there is an honest dispute with respect to the required provisions.

§ 5.4 Debarment.

(a) Whenever any contractor or subcontractor is found by the Secretary or the Head of the Agency with the concurrence of the Secretary to be in aggravated or willful violation of the labor standards provisions of any of the applicable statutes in § 5.1, other than the Davis-Bacon Act, such contractor or subcontractor or any firm, corporation, partnership, or association in which such contractor or subcontractor has a substantial interest shall be debarred for a period of three years (from the date of publication by the Comptroller General of the name or names of said contractor or subcontractor on the debarred bidders list) from receiving or participating under any contracts subject to any of the statutes listed in § 5.1; *Provided, however*, That the Secretary shall remove from the debarred bidders list any contractor or subcontractor whom he has found to have demonstrated a current responsibility to comply with the labor standards provisions applicable to Federal contracts and Federally assisted construction work subject to any of the applicable statutes listed in § 5.1.

(b) In cases arising under contracts covered by the Davis-Bacon Act, the debarment provision of that Act shall govern. However, the Head of the Agency shall furnish to the Secretary

for transmission to the Comptroller General the names of the persons or firms who appear to have disregarded their obligations to employees and subcontractors and the evidence of each violation of the Act. Any contractor or subcontractor who is debarred from Federal contracts pursuant to the Davis-Bacon Act shall be debarred concurrently from Federally assisted construction work subject to any of the statutes listed in § 5.1.

§ 5.5 Procedure in debarment cases; reinstatement.

(a) *Proceedings before hearing officer.* Whenever as a result of an investigation conducted by the Agency or the Department of Labor, the Secretary finds reasonable cause to believe that a contractor or subcontractor has committed willful or aggravated violations of the labor standards provisions of any of the statutes listed in § 5.1 (other than the Davis-Bacon Act), or has committed violations of the Davis-Bacon Act which constitute a disregard of its obligations to employees or subcontractors under section 3(a) thereof, the Secretary shall promptly notify the contractor or subcontractor of this finding, and afford such contractor or subcontractor and any of its responsible officers an opportunity to present such reasons or considerations as it has to offer relating to why debarment action should not be taken under § 5.4(a) of this part or section 3(a) of the Davis-Bacon Act. In this connection, the Secretary shall furnish to such contractor or subcontractor an adequate summary of the investigative findings, and shall make available to such contractor or subcontractor any information disclosed by the investigation which is not privileged or confidential. If this opportunity is requested, a hearing shall be held before a hearing officer of the Department of Labor. The contractor or subcontractor shall have an opportunity to be present at the hearing personally and by counsel, and to present such oral and documentary evidence as may be relevant to the issue or issues in controversy. The hearing may be stenographically reported upon such terms as the hearing officer may provide. It shall be the duty of the hearing officer to make a written decision and proposed order under § 5.4(a) of this part or recommendations under section 3(a) of the Davis-Bacon Act, as the case may be, upon the issue or issues involved, and shall notify the contractor or subcontractor of his decision.

(b) *Review—(1) Filing of exceptions; oral argument.* Within fifteen days from the notice of the decision and proposed order or recommendations of the hearing officer, any party may file with the Executive Secretary of the Wage Appeals Board, United States Department of Labor, Washington 25, D.C., exceptions thereto. Any exceptions so filed shall be considered by the Wage Appeals Board. Exceptions may be accompanied by a brief or supporting statement. If no exceptions are filed within the time allowed, the action of the hearing officer shall be final. In its discretion, the Board may permit oral argument.

(2) *Decision.* The decision of the Wage Appeals Board shall show the ruling upon each exception presented, and shall include a statement of (i) the findings and conclusions, as well as the reasons or bases therefor, upon all material issues of fact, law, or discretion presented on the record, and (ii) an appropriate order or recommendations. The decision of the Wage Appeals Board shall be final.

(c) *Reinstatement of debarred contractors and subcontractors.* Any person or firm debarred under § 5.4(a) may in writing request removal from the ineligible list. The procedure for removal shall be substantially similar to the initial debarment procedure. That is, the person or firm shall have an opportunity to demonstrate before a hearing officer a current responsibility to comply with the labor standards provisions applicable to Federal contracts and to Federally assisted construction work and file exceptions to the hearing officer's decision for consideration by the Wage Appeals Board.

§ 5.6 Agency payroll examinations; preservation of submitted payrolls.

The Federal agency shall make such examination of the submitted payrolls and statements as may be necessary to assure compliance with the labor standards clauses required by Part 3 of this subtitle and the applicable statutes listed in § 5.1. In connection with such examination particular attention should be given to the correctness of classifications and disproportionate employment of laborers, helpers, or apprentices. Such payrolls and statements shall be preserved by the agency for a period of three years from the date of completion of the contract and shall be produced at the request of the Secretary of Labor at any time during the three-year period.

§ 5.7 Agency investigations.

In addition to the examination of payrolls and statements required by § 5.6, the Federal agency shall cause such investigations to be made as may be necessary to assure compliance with the labor standards stipulations required by Part 3 of this subtitle and the applicable statutes listed in § 5.1. Projects where the contract is of short duration (six months or less) shall be investigated before the work is accepted, if feasible. In the case of contracts which extend over a long period of time the investigation shall be made with such frequency as may be necessary to assure compliance. Such investigations shall include interviews with laborers and mechanics and examinations of payroll data to determine the correctness of classifications and disproportionate employment of laborers, helpers, or apprentices. Complaints of alleged violations shall be given priority in the making of investigations. Statements, written or oral, made by any employee shall be treated as confidential and shall not be disclosed to his employer without the consent of the employee.

§ 5.8 Agency enforcement reports.

Cases involving willfulness, aggravation, or substantial amounts of money:

PROPOSED RULE MAKING

(a) After completion of any investigation and any final administrative decision, including any decision with respect to the assessment of liquidated damages under the Contract Work Hours Standards Act, and whenever labor standards violations are found: (1) To be willful or aggravated by any Federal agency, (2) to result in underpayments in the amount of \$500 or more, or (3) whenever the head of the agency makes recommendations for an appropriate adjustment in liquidated damages exceeding \$200 under the Contract Work Hours Standards Act, each Federal agency shall transmit to the Secretary a report which shall include the following: specific findings as to unpaid wages, any liquidated damages, and any willfulness or aggravation, lack of due care, or inadvertence notwithstanding the exercise of due care in the violations involved; any recommendations regarding any appropriate adjustment to be made in liquidated damages assessed under the Contract Work Hours Standards Act; a chronological narrative of the facts; evidence supporting the findings and any recommendations; correspondence showing the administrative processing of the investigation; information as to any restitution made; payments or approvals of loans, grants, guarantees, or subsidies withheld for unpaid wages or liquidated damages; contract terminations; the names and addresses of laborers and mechanics and contractors or subcontractors affected; and any other relevant information.

(b) After completion of any investigation and any final administrative decision, including any decision with respect to the assessment of liquidated damages under the Contract Work Hours Standards Act and whenever labor standards underpayments are found to be not willful or aggravated or total less than \$500 but more than \$100 and whenever recommendations for an appropriate adjustment of liquidated damages that are found to be less than \$200, the appropriate Federal agency need report only amounts withheld under the contract for unpaid wages or liquidated damages, any restitution payments it has supervised, a statement of the facts supporting its findings and recommendations, and the names and address of the employers and contractors or subcontractors affected.

(c) Upon request, the Agency Head shall transmit to the Secretary such information available to the Agency with respect to contractors and subcontractors, their contracts, and the nature of the contract work as the Secretary may find necessary to the performance of his duties with respect to the labor standards provisions referred to in this part.

§ 5.9 Contract termination reports.

When the contract is terminated by reason of violations of the labor standards, a report shall be submitted to the Secretary and the Comptroller General giving the name and address of the contractor or subcontractor whose right to proceed has been terminated, the name and address of any contractor or subcontractor who is to complete the work, the amount and number of his contract, and

the description of the work he is to perform.

§ 5.10 Suspension of funds.

In the event of failure or refusal of the contractor or any subcontractor to comply with labor standards clauses required by Part 3 of this subtitle and the applicable statutes listed in § 5.1, the Federal agency shall take such action as may be necessary to cause the suspension of the payment, advance or guarantee of funds until such time as the violations are discontinued or until sufficient funds are withheld to compensate employees for the wages to which they are entitled.

§ 5.11 Restitution.

The Head of the Agency may, in appropriate cases where violations of the labor standards clauses required by Part 3 of this subtitle and the applicable statutes listed in § 5.1 result in underpayment of wages to laborers or mechanics which are found to be nonwillful, order that restitution be made to such employees.

§ 5.12 Criminal proceedings.

In cases where the Head of the Agency finds substantial evidence that the facts and circumstances resulting in labor standards violations are in violation of any criminal statute, he shall forward the matter to the Attorney General of the United States. In all such cases the Secretary shall be informed of the action taken.

§ 5.13 Department of Labor investigations.

The Secretary shall cause to be made such investigations as he deems necessary, in order to obtain compliance with the labor standards provisions of the applicable statutes listed in § 5.1, or to affirm or reject the recommendations by the Head of an agency for an appropriate adjustment in liquidated damages assessed under the Contract Work Hours Standards Act. Federal agencies, contractors, subcontractors, sponsors, applicants or owners shall cooperate with any authorized representative of the Department of Labor in the inspection of records, in interviews with workers, and in all other aspects of the investigation. Any authorized representative of the Department of Labor under this section is deemed a person designated to aid in the enforcement of the overtime standards required by the Contract Work Hours Standards Act within the meaning of section 104(a) of that Act. A report of the investigation of such representative shall be transmitted to proper officers of the United States, any territory or possession, as the case may be, as required by the aforesaid section 104(a).

§ 5.14 Disputes; hearings.

(a) *Referral of disputes.* The Federal Agency shall refer to the Secretary any dispute wherein there is in issue the proper exercise of authority by the Secretary under any of the statutes listed in § 5.1 or any of the rules in this part or those in Parts 1 or 3 of this subtitle. Further, the Federal Agency on its own behalf or that of any interested person

or party may refer to the Secretary any dispute concerning the payment of prevailing wage rates or proper classifications which involve significant sums of money, large groups of employees, or novel or unusual situations. The Secretary may resolve any dispute referred to him by any appropriate means, including the holding of a hearing, as provided under paragraph (b) of this section.

(b) *Hearings.* (1) Any hearing held under this section shall be before a hearing examiner appointed under section 11 of the Administrative Procedure Act. The hearing examiner shall have the power to do all acts and take all measures necessary for an efficient conduct of the proceeding. In any such hearing, interested persons or parties shall have the opportunity to appear personally and by counsel and to present such oral and documentary evidence as is relevant to the issue or issues in controversy. As a matter of policy, the hearing examiner shall exclude evidence which is irrelevant, immaterial, or unduly repetitious.

(2) It shall be the duty of the hearing examiner to make a written decision containing his findings and conclusions upon all material issues of fact, law, and discretion, including findings as to the amounts of any wage underpayments. Copies of the decision of the hearing examiner shall be mailed to each party or interested person participating in the proceeding.

(3) Within 20 days from receipt of the decision of the hearing examiner, any party or interested person participating in the proceeding may file with the Executive Secretary of the Wage Appeals Board, United States Department of Labor, Washington 25, D.C., exceptions (original and three copies) to that decision. Such exceptions shall be considered by the Wage Appeals Board. Exceptions may be accompanied by a brief or supporting statement (original and three copies). If no exceptions are filed in the time allowed, the decision of the hearing examiner shall be final.

(4) The decision of the Wage Appeals Board shall show a ruling upon each exception presented, and shall include a statement of findings and conclusions, as well as the reasons or bases therefor, upon all material issues of law, fact, and discretion presented on the record.

§ 5.15 Review of recommendations for an appropriate adjustment in liquidated damages under the Contract Work Hours Standards Act.

(a) *Findings and recommendations by head of agency.* Whenever the head of an agency finds that the sum of liquidated damages administratively determined to be due under section 104(a) of the Contract Work Hours Standards Act is incorrect or that the contractor or subcontractor violated inadvertently the provisions of the Contract Work Hours Standards Act notwithstanding the exercise of due care upon the part of the contractor or subcontractor involved, he may make recommendations to the Secretary that an appropriate adjustment in liquidated damages be made or that the contractor or subcontractor be relieved of liability for such liquidated

damages. Such findings with respect to liquidated damages necessarily include findings with respect to any wage underpayments for which the liquidated damages are determined.

(b) *Findings by the Department of Labor.* The recommendations of the head of an agency submitted to the Department of Labor under paragraph (a) of this section shall be reviewed initially by the officer in charge of the Division of Wage Determinations. Whenever such officer concurs in the findings and recommendations of the head of the agency, he shall issue an order to that effect, which shall be the final action of the Department of Labor with respect to the issues involved. Whenever such officer makes findings differing from those of the head of the agency, his decision shall be transmitted forthwith to the Wage Appeals Board for review. The decision and order of the Wage Appeals Board shall be the final action of the Department of Labor with respect to the issues involved.

§ 5.16 Rulings and interpretations.

All questions arising in any agency relating to the application and interpretation of the rules contained in this part and in Parts 1 and 3 of this subtitle, and of the labor standards provisions of any of the statutes listed in § 5.1 shall be referred to the Secretary for appropriate ruling or interpretation. The rulings and interpretations of the Secretary shall be authoritative and those under the Davis-Bacon Act may be relied upon as provided for in section 10 of the Portal-to-Portal Act of 1947 (29 U.S.C. 259). Requests for such rulings and interpretations should be addressed to the Secretary of Labor, United States Department of Labor, Washington 25, D.C., Attention: Solicitor of Labor.

§ 5.17 Variations, tolerances, and exemptions from Parts 1 and 3 of this subtitle and this part.

The Secretary may make variations, tolerances, and exemptions from the requirements of this part and those of Parts 1 and 3 of this subtitle whenever he finds that such action is necessary and proper in the public interest or to prevent injustice and undue hardship.

§ 5.18 Limitations, variations, tolerances, and exemptions under the Contract Work Hours Standards Act.

(a) *General.* Upon his own initiative or upon the request of any Federal agency, the Secretary may provide under section 105 of the Contract Work Hours Standards Act reasonable limitations and allow variations, tolerances, and exemptions to and from any or all provisions of that Act whenever he finds such action to be necessary and proper in the public interest to prevent injustice or undue hardship or to avoid serious impairment of the conduct of Government business. Any request for such action by the Secretary shall be submitted in writing, and shall set forth the reasons for which the request is made.

(b) *Exemptions.* Pursuant to section 105 of the Contract Work Hours Standards Act, the following classes of con-

tracts are found exempt from all provisions of that Act in order to prevent injustice, undue hardship, or serious impairment of Government business:

(1) Contracts entered into by or on behalf of Commodity Credit Corporation providing for storing in or handling by commercial warehouses of wheat, corn, oats, barley, rye, grain sorghums, soybeans, flaxseed, rice, naval stores, tobacco, peanuts, dry beans, seeds, cotton, and wool.

(2) Contracts (and agreements related thereto) by the Tennessee Valley Authority with States, counties, municipalities, cooperative organizations of citizens or farmers, corporations and other individuals for the sale or exchange of surplus power pursuant to section 10 of the Tennessee Valley Authority Act of 1933 (16 U.S.C. 831i).

(3) Construction contracts of \$2,000 or less.

Subpart B—Wage Appeals Board

§ 5.20 Purpose.

This subpart prescribes the composition and functions of the Wage Appeals Board.

§ 5.21 Composition; voting.

(a) The Wage Appeals Board shall consist of three public members. One of the members shall be designated to serve as Chairman. There shall be an alternate member designated who may serve in lieu of regular members. All members and the alternate member shall be appointed and designated by the Secretary of Labor upon the basis of their qualifications and competence in matters within the jurisdiction of the Board. The members shall be impartial. No member shall sit in any matter in which he has a substantial interest or in which he is so related as to render it improper for him to participate in the decision.

(b) The Chairman of the Board may, in his discretion, designate himself or any other member of the Board to decide any appeal provided the parties have consented in to the disposition of the appeal in this manner. The Chairman may also direct that any appeal may be decided by a panel of any two members of the Board, but if they are unable to agree upon a decision, the case will be decided by the full Board. When an appeal is decided by all three members of the Board, a majority vote shall be necessary for decision.

§ 5.22 Authority and jurisdiction of Board; procedural rules.

(a) The Board exercises the authority of the Secretary of Labor in deciding appeals taken from wage determinations under §§ 1.46, 1.52-1.54 of this subtitle, appeals in debarment cases under § 5.5, disputes handled under § 5.4(b), and review of recommendations for appropriate adjustment of liquidated damages under § 5.15. The decisions of the Board upon such appeals are final for the Department.

(b) The procedural rules governing the Board are those in §§ 1.46, 1.52-1.54, 5.5, 5.14(b), or 5.15 of this subtitle, whichever may be applicable in the particular proceeding, and such other rules

as the Board may from time to time prescribe.

§ 5.23 Department counsel.

The Solicitor or his designee shall represent the Department in each hearing before the Board.

§ 5.24 Executive Secretary.

The Board shall have an Executive Secretary who shall be appointed by the Secretary of Labor upon the basis of his qualifications and competence in matters within the jurisdiction of the Board. The Executive Secretary shall be trained in the law, and shall exercise general supervision over the clerical and professional personnel required by the Board in the performance of its duties, and such administrative duties as the Board may direct.

§ 5.25 Conferences.

(a) The Chairman may direct the parties to appear before the Board or its designee at a specified time and place for a conference to consider the following:

- (1) Simplification of issues;
- (2) Possibility of obtaining stipulations, admission of facts, and introduction of statements;
- (3) Such other matters as may aid in the disposition of the matter.

(b) The results of the conference shall be reduced to writing by the Board or its designee and made a part of the record.

Signed at Washington, D.C., this 30th day of October 1962.

W. WILLARD WIRTZ,
Secretary of Labor.

[F.R. Doc. 62-11006; Filed, Nov. 2, 1962; 8:45 a.m.]

FEDERAL AVIATION AGENCY

[14 CFR Part 507]

[Reg. Docket No. 1462]

CURTISS-WRIGHT C-46 SERIES AIRCRAFT

Proposed Airworthiness Directive

Pursuant to the authority delegated to me by the Administrator (14 CFR Part 405), notice is hereby given that the Federal Aviation Agency has under consideration a proposal to amend Part 507 of the regulations of the Administrator to include an airworthiness directive requiring inspection of the rudder spring tab rod terminals on Curtiss-Wright C-46 Series aircraft.

Interested persons may participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should be submitted in duplicate to the Docket Section of the Federal Aviation Agency, Room A-103, 1711 New York Avenue NW., Washington 25, D.C. All communications received on or before December 4, 1962, will be considered by the Administrator before taking action on the proposed rule. The proposals contained in this notice may be changed in light of comments re-

PROPOSED RULE MAKING

ceived. All comments submitted will be available in the Docket Section for examination by interested persons at any time. This proposal will not be given further distribution as a draft release.

This amendment is proposed under the authority of sections 313(a), 601, and 603 of the Federal Aviation Act of 1958 (72 Stat. 752, 775, 776; 49 U.S.C. 1354(a), 1421, 1423).

In consideration of the foregoing, it is proposed to amend § 507.10(a) of Part 507 (14 CFR Part 507), by adding the following airworthiness directive:

CURTISS-WRIGHT. Applies to all C-46 Series aircraft which have rudder assemblies P/N 20-140-5110, installed.

Compliance required as indicated.

A recent inflight failure of the rudder spring tab rod terminal resulted in the free flutter of the rudder spring tab which forced the rudder to oscillate. To preclude the failure of this rod terminal and the resulting loss of control of the aircraft, the following shall be accomplished:

(a) (1) Aircraft with less than 10,000 hours' time in service shall be inspected in accordance with (b) prior to the accumulation of 10,200 hours' time in service and thereafter every 400 hours' time in service.

(2) Aircraft with 10,000 or more hours' time in service shall be inspected in accordance with (b) within 200 hours' time in service after the effective date of this AD, unless already accomplished within the last 200 hours' time in service, and thereafter every 400 hours' time in service from the last inspection.

(b) (1) Remove the clevis, P/N 20-530-5133-2, and AN 316-5R nut from the rudder spring tab rod assembly, P/N 20-530-5134-1;

(2) Inspect for cracks in the shoulder and threaded shank of the rod terminal, P/N 20-530-5132-2, using a dye penetrant, magnetic particle, or an FAA approved equivalent inspection method in conjunction with at least a 5-power magnifying glass;

(3) Replace cracked rod terminals, P/N 20-530-5132-2, prior to further flight.

(c) Rod terminals P/N 20-530-5132-2 or rod assembly, P/N 20-530-5134-1 having zero or a known time in service not exceeding 5,000 hours, may be installed in compliance with (b) (3). Such parts shall be inspected and replaced in accordance with the following:

(1) Parts having less than 4,800 hours' time in service shall be inspected in accordance with paragraph (b) (1) and (2) prior to the accumulation of 5,000 hours and thereafter every 400 hours' time in service.

(2) Parts having 4,800 or more hours' time in service shall be inspected in accordance with paragraph (b) (1) and (2) within the next 200 hours' time in service and thereafter every 400 hours' time in service.

(3) Cracked parts shall be replaced prior to further flight.

(d) The inspection required by paragraph (b) is no longer required when rod assembly, P/N 20-530-5134-1, is replaced with a new Component Air, Inc., rod assembly, P/N CAI-46003-1 or with an FAA approved rod terminal, and clevis or a rod assembly incorporating a clevis with $\frac{3}{8}$ -24 UNF or $\frac{3}{16}$ -20 UNF threads.

(e) Upon request of the operator, an FAA maintenance inspector, subject to prior approval of the Chief, Engineering and Manufacturing Branch, FAA Southern Region, may adjust the repetitive inspection intervals specified in this Airworthiness Directive to permit compliance at an established inspection period of the operator if the request contains substantiating data to justify the increase for such operator.

Issued in Washington, D.C., on October 30, 1962.

G. S. MOORE,
Acting Director,
Flight Standards Service.

[F.R. Doc. 62-11000; Filed, Nov. 2, 1962; 8:45 a.m.]

SECURITIES AND EXCHANGE COMMISSION

[Release 34-6921]

[17 CFR Part 240]

SUSPENSIONS OF TRADING AND REMOVALS FROM LISTING AND REGISTRATION

Notice of Proposed Rule Making

Notice is hereby given that the Securities and Exchange Commission has under consideration a proposal to amend §§ 240.12d2-1 and 12d2-2 (Rules 12d2-1 and 12d2-2), which provide for the suspension of trading of listed securities by a national securities exchange and for their removal from listing and registration under specified conditions. The proposal also involves the revision of Form 25 (listed and described in § 249.225), the form used by an exchange to apply to strike a security from listing and registration in certain situations. The proposed action would be taken under the Securities Exchange Act of 1934, and particularly sections 12(d) and 23(a) thereof.

Section 12(d) of the Act provides that, upon application by the issuer or the exchange to the Commission, a security registered with a national securities exchange may be withdrawn or stricken from listing and registration in accordance with the rules of the exchange, except that the Commission may impose such terms as it may deem necessary for the protection of investors.

Paragraph (a) of § 240.12d2-1 now provides that a security listed and registered on a national securities exchange may be suspended from trading by the exchange in accordance with its rules if appropriate notice is given to the Commission. No change in the substance of this provision is contemplated. The other provisions of § 240.12d2-1 which relate to applications to withdraw or strike a security from listing or registration would be modified, as mentioned below, and made part of § 240.12d2-2.

As proposed to be amended, § 240.12d2-2 would provide, under paragraph (a) thereof, that a national securities exchange shall file with the Commission an application on Form 25 to strike from listing and registration matured, redeemed or retired securities. This application would become effective on the date specified by the exchange, but not less than 10 days after the application is filed, and, where a successor security is admitted to trading under a temporary exemption, not earlier than the date on which the security is removed from its exempt status. The latter provision would be necessary to preserve the temporary exemption. Provisions similar to those of paragraph (a) of § 240.12d2-2

are now contained in the present § 240.12d2-2.

Paragraph (b) of the rule would provide that an exchange may file an application on Form 25 to strike a security from listing and registration on that exchange if trading has been terminated pursuant to a rule of the exchange requiring such termination whenever the security is admitted to trading on another exchange, and the security has become listed and registered on such other exchange. Such an application would become effective on the date specified by the exchange, but not less than 10 days after it is filed. Paragraph (d) of existing § 240.12d2-2 now contains a similar basis for delisting, but does not require the filing of Form 25. Form 25, which would be used in situations provided for in paragraphs (a) and (b), would be revised to make it a form of application, and to cover the situations in which it may be used.

Paragraph (c) of § 240.12d2-2 would provide that a national securities exchange may file an application to strike a security from listing and registration in accordance with its rules, if, in the opinion of the exchange, the security is no longer suitable for trading or it is not in the public interest to continue to trade the security on such exchange. In these cases, such an application would be deemed to be granted and become effective on the date specified in the application by the exchange, (but not less than 20 days after it is filed by the exchange) unless the Commission by written notice to the exchange postpones the effective date for a period of not more than 60 days or directs that some specified procedure be followed to determine whether the application has been made in accordance with the rules of the exchange or what terms should be imposed by the Commission for the protection of investors.

The provisions of paragraph (c) of the rule are intended to establish more realistic administrative procedures for handling an application by a national securities exchange to delist a security in accordance with its rules. The Courts have held¹ that the Commission may not refuse to grant such a delisting application, but may impose only such terms as it deems necessary for the protection of investors; and in such cases the terms imposed have generally been limited to a delay of effectiveness of the order, to allow settlement of outstanding contracts, etc. Where the Commission has any reason to believe that the delisting is not in compliance with the rules of the exchange, or if there is a question as to whether terms other than a delay of effectiveness are necessary for the protection of investors, the Commission, under the proviso clause of paragraph (c), would direct that specified procedures be followed to determine these matters.

Paragraph (d) of the rule would specify the information that has to be

¹ Atlas Tack Corporation v. New York Stock Exchange, et al. 246 2d 311 (C.A. 1, 1957); Exchange Buffet Corporation v. New York Stock Exchange, et al., 244 F. 2d 507 (C.A. 2, 1957).

contained in an application filed by an exchange under paragraph (c), and in any other applications to withdraw or strike a security from listing and registration (where Form 25 is not to be used) whether filed by the issuer or by the exchange, and would require prompt delivery of a copy of the application by the issuer to the exchange, or by the exchange to the issuer, as the case may be. It would also provide for publication of notice of the filing of the application to afford interested persons an opportunity to submit in writing to the Commission any facts bearing upon whether the delisting is in compliance with exchange rules, or the terms to be imposed by the Commission.

Paragraph (e) of § 240.12d2-2 would contain the provisions now in paragraph (c) of § 240.12d2-2.

The text of §§ 240.12d2-1 and 12d2-2 as proposed to be amended would be as follows:

§ 240.12d2-1 Suspension of trading.

(a) A national securities exchange may suspend from trading a security listed and registered thereon in accordance with its rules. Such exchange shall promptly notify the Commission of any such suspension, the effective date thereof, and the reasons therefor.

(b) Any such suspension may be continued until such time as it shall appear to the Commission that such suspension is designed to evade the provisions of section 12(d) of the rules and regulations thereunder relating to the withdrawal and striking of a security from listing and registration. During the continuance of such suspension the exchange shall notify the Commission promptly of any change in the reasons for the suspension. Upon the restoration to trading of any security suspended under this rule, the exchange shall notify the Commission promptly of the effective date thereof.

(c) Suspension of trading shall not terminate the registration of any security.

§ 240.12d2-2 Removal from listing and registration.

(a) A national securities exchange shall file with the Commission an application on Form 25 to strike a security from listing and registration thereon within a reasonable time after the exchange is reliably informed that any of the following conditions exist with respect to such a security:

(1) The entire class of the security has been called for redemption, maturity or retirement; appropriate notice thereof has been given; funds sufficient for the payment of all such securities have been deposited with an agency authorized to make such payments; and such funds have been made available to security holders.

(2) The entire class of the security has been redeemed or paid at maturity or retirement.

(3) The instruments representing the securities comprising the entire class have come to evidence, by operation of law or otherwise, other securities in substitution therefor and represent no other right, except, if such be the fact, the

right to receive an immediate cash payment (the right of dissenters to receive the appraised or fair value of their holdings shall not prevent the application of this provision).

(4) All rights pertaining to the entire class of the security have been extinguished: *Provided, however,* That where such an event occurs as the result of an order of a court or other governmental authority, the order shall be final, all applicable appeal periods shall have expired, and no appeals shall be pending.

EFFECTIVE DATE: Such an application shall be deemed to be granted and shall become effective at the opening of business on such date as the exchange shall specify in said application, but not less than 10 days following the date on which said application is filed with the Commission; *Provided, however,* That in the event removal is being effected under paragraph (a) (3) of this section and the exchange has admitted or intends to admit a successor security to trading under the temporary exemption provided for by § 240.12a-5, such date shall not be earlier than the date on which the successor security is removed from its exempt status.

(b) A national securities exchange may file with the Commission an application on Form 25 to strike a security from listing and registration thereon if:

(1) Trading in said security has been terminated pursuant to a rule of such exchange requiring such termination whenever a security is admitted to trading on another exchange; and

(2) Listing and registration of such security has become effective on such other exchange.

EFFECTIVE DATE: Such an application shall be deemed to be granted and shall become effective at the opening of business on such date as the exchange shall specify in said application, but not less than 10 days following the date on which said application is filed with the Commission.

(c) A national securities exchange may file an application to strike a security from listing and registration in accordance with its rules if, in the opinion of the exchange, it is no longer suitable for trading or it is not in the public interest to continue to trade the security on such exchange.

EFFECTIVE DATE: Such an application shall be deemed to be granted and shall become effective on the date specified in the application by the exchange (but not less than 20 days after it is filed with the Commission) unless the Commission, by written notice to the exchange, postpones the effective date for a period of not more than 60 days thereafter: *Provided, however,* That the Commission, by written notice to the exchange on or before the effective date, may direct that some further specified procedure be followed to determine whether the application to strike the security from listing and registration has been made in accordance with the rules of the exchange, or what terms should be imposed by the Commission for the protection of investors.

(d) (1) An application by an issuer or by a national securities exchange to withdraw or strike a security from listing and registration in cases not provided for under paragraphs (a) or (b) of this section, shall comply with the following requirements:

(i) The application shall be filed in triplicate, the original of which shall be dated and signed by an authorized offi-

cial of the exchange, or of the issuer, as the case may be.

(ii) If the applicant is the exchange it shall promptly deliver a copy of the application to the issuer and if the applicant is the issuer it shall promptly deliver a copy of the application to the exchange.

(iii) The application shall set forth a description of the security involved together with a statement of all material facts relating to the reasons for filing such application for withdrawal or striking from listing and registration.

(iv) The application shall set forth the steps taken by the applicant to comply with the rules of the exchange governing the delisting of securities.

(2) Upon the filing of an application to withdraw or strike a security from listing and registration under this paragraph (d) (other than applications filed pursuant to paragraph (c) of this section) notice of the filing of such application will be published in the FEDERAL REGISTER. The notice will provide that any interested person may, on or before a date specified, submit to the Commission, in writing, any facts bearing upon whether the application to withdraw or strike the security from listing or registration has been made in accordance with the rules of the exchange, or what terms should be imposed by the Commission for the protection of investors. An order disposing of the matter will be issued on or after such date unless prior thereto the Commission orders a hearing on the matter.

(e) If within 30 days after the publication of any rule or regulation which substantially alters or adds to the obligations, or detracts from the rights, of an issuer of a security registered pursuant to application under section 12 (b) or (c), or of its officers, directors, or security holders, or of persons soliciting or giving any proxy or consent or authorization with respect to such security, the issuer shall file with the Commission a request that such registration shall expire and shall accompany such request with a written explanation of the reasons why the publication of such rule or regulation leads the issuer to make such request, such registration shall expire immediately upon receipt of such request or immediately before such rule or regulation becomes effective, whichever date is later. The absence of an express reservation, in an application for registration, of the rights herein granted shall not be deemed a waiver thereof.

(Secs. 12(d), 23(a), 48 Stat. 892, 901, as amended, 15 U.S.C. 78l, 78 w)

All interested persons are invited to submit their views and comments on the proposal in writing to the Securities and Exchange Commission, Washington 25, D.C., on or before November 30, 1962. Such comments or suggestions will be available for public inspection.

By the Commission.

[SEAL]

ORVAL L. DuBOIS,
Secretary.

OCTOBER 25, 1962.

[F.R. Doc. 62-11009; Filed, Nov. 2, 1962; 8:46 a.m.]

Notices

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

ALASKA

Notice of Proposed Withdrawal and Reservation of Lands

The Department of the Army has filed an application, Serial Number F-030386 for the withdrawal of the lands described below, from all forms of appropriation under the public land laws, including the mining and mineral leasing laws. The applicant desires the land for use as a non-interference, protective zone for the Donnelly Flats Air Force Station Midas receiver site.

For a period of 30 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the undersigned officer of the Bureau of Land Management, Department of the Interior, Cordova Building, 555 Cordova Street, Anchorage, Alaska.

If circumstances warrant it, a public hearing will be held at a convenient time and place, which will be announced.

The determination of the Secretary on the application will be published in the FEDERAL REGISTER. A separate notice will be sent to each interested party of record.

The lands involved in the application are:

DONNELLY FLATS AREA

Beginning at a point on the centerline of the Richardson Highway within Protracted Section 2, T. 13 S., R. 10 E., F.M., said point being S. 83°30' E., 2,640 feet from a point common to the East Boundary of Tract A, Fort Greely and the North Line of said Section 2; thence S. 6°30' W., 10,560 feet along said centerline to a point; thence N. 83°30' W., 2,640 feet to a point on the East Boundary of said Tract A, Fort Greely; thence N. 6°30' E., 10,560 feet along said boundary to a point on the North Line of said Section 2; thence S. 83°30' E., 2,640 feet to the point of beginning.

Containing 640 acres, more or less.

ROBERT J. COFFMAN,

Chief, Division of

Lands and Minerals Management.

[F.R. Doc. 62-11005; Filed, Nov. 2, 1962; 8:45 a.m.]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

FROZEN CONCENTRATED ORANGE JUICE

Notice of Purchase Program DMP 135a

In order to encourage the domestic consumption of oranges by diverting

10774

them from the normal channels of trade and commerce in accordance with section 32, Public Law 320, 74th Congress, approved August 24, 1935, as amended, the United States Department of Agriculture will purchase frozen concentrated orange juice processed from oranges produced in the continental United States during the 1961-62 season or later, for subsequent use in eligible outlets. Purchases will be made on an offer and acceptance basis as a surplus removal activity. Details and specifications of the invitation to offer frozen orange concentrate are contained in Announcement FV-321 issued by the Department on October 26, 1962. Quantities purchased will depend upon marketing conditions at the time of purchase and availability of outlets. Information concerning this purchase program may be obtained from the Fruit and Vegetable Division, Agricultural Marketing Service, Department of Agriculture, Washington 25, D.C.

(Sec. 32, 49 Stat. 774, as amended, 7 U.S.C. 612c)

Dated: October 31, 1962.

FLOYD F. HEDLUND,
Director, Fruit and Vegetable
Division, Agricultural Mar-
keting Service.

[F.R. Doc. 62-11033; Filed, Nov. 2, 1962; 8:49 a.m.]

FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 14707; FCC 62M-1450]

CANNON BROADCASTING CO.

Order Continuing Hearing

In re application of Cannon Broadcasting Company, Woodbury, Tennessee, Docket No. 14707, File No. BP-15264; for construction permit.

The Hearing Examiner having under consideration a Petition for Extension of Dates for Informal Exchange of Exhibits, Etc., filed by Cannon Broadcasting Company on October 22, 1962, no pleadings having been filed in reply thereto;

It appearing that petitioner is the only remaining applicant in this proceeding, and that a grant of the requested relief is appropriate, but that the dates requested by petitioner are unavailable in the Hearing Examiner's schedule;

It is ordered, This 29th day of October 1962, That the subject petition is granted, and the following dates are substituted for those specified in the Hearing Examiner's order released herein on September 18, 1962:

- (a) Informal exchange—November 30, 1962;
- (b) Formal exchange—December 24, 1962;

(c) Notification of witnesses—January 2, 1963;

(d) Hearing—January 14, 1963.

Released: October 30, 1962.

FEDERAL COMMUNICATIONS

COMMISSION,

[SEAL]

BEN F. WAPLE,

Acting Secretary.

[F.R. Doc. 62-11029; Filed, Nov. 2, 1962; 8:49 a.m.]

[Docket Nos. 14714, 14715; FCC 62M-1451]

DESERT BROADCASTING CO., INC., AND MANUEL MARTINEZ

Order Continuing Hearing

In re applications of Desert Broadcasting Company, Inc., for additional time to construct Radio Station KANT-FM, Lancaster, California, Docket No. 14714, File No. BMHP-6746; Desert Broadcasting Company, Inc., (Assignor), and Manuel Martinez (Assignee), for assignment of construction permit for Radio Station KANT-FM, Lancaster, California, Docket No. 14715, File No. BAPH-271.

On the basis of the views expressed by the Hearing Examiner at the oral argument held on October 26, 1962, and reflected on the transcript of record thereof, incorporated herein by reference,

It is ordered, This 29th day of October 1962, that the following rulings obtain governing the further conduct of this proceeding: (1) Applicant's petition filed October 23, 1962, for continuance of the hearing from October 31 to at least November 19, 1962, is denied; and (2) on the Hearing Examiner's own motion the hearing herein, presently scheduled to commence on October 31, 1962: (a) is continued to 10:00 a.m., November 5, 1962, in the event applicant fails to petition, not later than by November 2, 1962, inclusive, the Review Board for acceptance of late publication of the hearing notice on the subject application for assignment of construction permit of Radio Station KANT-FM (BAPH-271), the November 5 hearing to be held on the issues herein bearing only on the subject application for additional time to construct Radio Station KANT-FM (BMPH-6746), or (b) is continued to a date to be fixed by further order of the Hearing Examiner after action by the Review Board, in the event applicant, not later than by November 2, 1962, inclusive, files the above-identified petition for partial waiver.

Released: October 30, 1962.

FEDERAL COMMUNICATIONS

COMMISSION,

[SEAL]

BEN F. WAPLE,

Acting Secretary.

[F.R. Doc. 62-11030; Filed, Nov. 2, 1962; 8:49 a.m.]

[Docket Nos. 14739, 14740; FCC 62M-1452]
EDINA CORP. AND TEDESCO, INC.

Order Continuing Hearing

In re applications of Edina Corp., Edina, Minnesota, Docket No. 14739, File No. BP-14018; Tedesco, Inc., Bloomington, Minnesota, Docket No. 14740, File No. BP-15272; for construction permits. A further prehearing conference in the above-entitled matter having been held on October 29, 1962, and it appearing from the record made therein that the recent addition of certain issues has necessitated a continuance of certain procedural dates heretofore obtaining, and that certain agreements were reached and certain rulings were made by the Hearing Examiner with respect thereto which should be formalized by order;

It is ordered, This 29th day of October 1962, that:

(1) The direct affirmative cases of the applicants shall be presented entirely in the form of sworn written exhibits;¹

(2) Copies of the applicants' proposed exhibits shall be supplied the other parties hereto on or before December 7, 1962, but proposed engineering exhibits may be amended or reformed prior to December 21, 1962, and proposed non-engineering exhibits may be modified to cure barriers to admissibility prior to December 21, 1962;

(3) Copies of the applicants' exhibits in final form shall be supplied the other parties hereto on or before December 21, 1962;

(4) The foregoing schedule shall not apply to issues 4 and 11 in the order of designation released July 31, 1962, which issues are contingent on matters to be established by record evidence, and, with respect to these issues, the determination of whether evidence shall be adduced and the timing of such evidence shall be the subject of an order by the Hearing Examiner subsequent to the taking of the necessary preliminary evidence;

It is further ordered, That the hearing heretofore scheduled to commence on November 19, 1962, is continued to January 3, 1963, commencing at 10:00 a.m., in the offices of the Commission at Washington, D.C., and that:

(1) The hearing on the specified date shall be confined to the presentation of the exhibits comprising the applicants' direct affirmative cases; and

(2) At the conclusion of the parties' direct presentation they shall be prepared to give notification of what witnesses responsible for the preparation of any other parties' exhibits they wish to call for cross-examination, and at that

¹In the event Edina Corporation wishes to present its evidence in oral form with respect to issues added subsequent to the Order of designation released July 31, 1962, it shall so advise the Hearing Examiner and the other parties hereto in writing on or before November 5, 1962. Absent notification by such date, the Edina direct case on all presently designated issues will be in the form of sworn written exhibits.

time a hearing date for cross-examination will be established.

Released: October 30, 1962.

FEDERAL COMMUNICATIONS
COMMISSION,
[SEAL] BEN F. WAPLE,
Acting Secretary.

[F.R. Doc. 62-11031; Filed, Nov. 2, 1962;
8:49 a.m.]

FEDERAL POWER COMMISSION

[Docket No. G-20439]

CONTINENTAL OIL CO., ET AL.

Order Substituting Respondent, Accepting Successor's Undertaking, and Redesignating Proceeding

OCTOBER 29, 1962.

Continental Oil Company (Operator), et al. (Formerly Calvert Petroleum Company (Operator), et al.).

On April 12, 1961, Continental Oil Company (Continental) filed a motion to be substituted for Calvert Petroleum Company (Calvert) as Respondent in the Docket No. G-20439. Concurrent with such motion Continental tendered for filing an agreement and undertaking assuming all obligations to make refunds arising on or after the proposed increased rates became effective subject to refund in Docket No. G-20439. Said increased rates became effective subject to refund on August 29, 1960, as set forth in the order issued March 13, 1961.

In support of its motion to substitute Continental states that it has succeeded to all of the interest heretofore owned or claimed by Calvert in the leases, lands, gas production and gas sales contracts covered by Calvert's FPC Gas Rate Schedules Nos. 1 and 2, to which Docket No. G-20439 relates.

Concurrent with the filing of the motion to substitute, Continental filed its Certificate of Adoption of Rate Schedules (notices of succession) covering Calvert's FPC Gas Rate Schedules Nos. 1 and 2. By letter dated September 19, 1961, the adoption was accepted for filing to be effective March 13, 1961, and Calvert's FPC Gas Rate Schedules Nos. 1 and 2, as supplemented, were redesignated as Continental's FPC Gas Rate Schedules Nos. 188 and 189, as supplemented, respectively.

The Commission finds: It is necessary and proper in carrying out the provisions of the Natural Gas Act that Continental be substituted for Calvert as Respondent in Docket No. G-20439, that the proceeding be redesignated accordingly, and that Continental's agreement and undertaking, assuming all obligations to make refunds arising on or after the proposed increased rates became effective subject to refund in Docket No. G-20439, be accepted for filing.

The Commission orders:

(A) Continental Oil Company is hereby substituted for Calvert Petroleum Company as Respondent in Docket No. G-20439, and said proceeding is redesignated as "Continental Oil Company (Operator), et al."

(B) The agreement and undertaking filed by Continental Oil Company on April 12, 1961, assuming all obligations to make refunds arising on or after the proposed increased rates became effective subject to refund in Docket No. G-20439, is accepted for filing.

(C) Continental Oil Company shall comply with the refunding and reporting procedure required by the Natural Gas Act and § 154.102 of the regulations thereunder, and the agreement and undertaking assuming the refund obligations in Docket No. G-20439 shall remain in full force and effect until discharge by the Commission.

By the Commission.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 62-11001; Filed, Nov. 2, 1962;
8:45 a.m.]

[Docket No. CP62-308]

COLUMBIA GULF TRANSMISSION CO.

Notice of Application and Date of Hearing

OCTOBER 29, 1962.

Take notice that on June 29, 1962, Columbia Gulf Transmission Company (Applicant), P.O. Box 683, Houston 1, Texas, filed in Docket No. CP62-308 an application pursuant to section 7(b) of the Natural Gas Act for permission and approval of the Commission to abandon certain natural gas facilities as herein-after described, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant seeks authority to abandon the following described gas purchase facilities:

(1) Erath-Cole field line, a 2.49-mile 6-inch gathering line located in Vermilion Parish, Louisiana, and constructed to take gas from properties operated by Howard S. Cole, Jr., in the Erath Field, Vermilion Parish, Louisiana;

(2) North Maxie-Forest field line, a 4.03-mile 4-inch gathering line located in Acadia Parish, Louisiana, and constructed to take gas from properties operated by Forest Oil Corporation in the North Maxie Field, Acadia Parish, Louisiana; and

(3) East Mud Lake Compressor Station, a 550-horsepower field compressor station located in Cameron Parish, Louisiana, on Applicant's West Lateral System and constructed to transport volumes of 22,950 McfD from the Cameron Meadows Field, Cameron Parish, Louisiana.

Applicant states that the wells connected to the above described gathering lines are no longer capable of producing, the reservoirs in which they were completed are fully depleted and that the Commission has permitted and approved the abandonment of service by the producers with respect to the delivery of gas under their gas sales

contracts. Applicant further states that the current and future takes from the Cameron Meadows Field are estimated at only 7,100 Mcf/d so that the East Mud Lake field compressor unit is no longer required. Applicant states that the above described facilities are no longer in use, that it cannot foresee any requirement for them in the future, and that the available supply of natural gas is depleted to the extent that the continuance of service through these facilities is unwarranted. Applicant further alleges that the gathering lines will be abandoned in place, and the field compressor unit will be sold for salvage, with the salvage exceeding cost of removal estimated to be \$70,000.00.

This matter is one that should be disposed of as promptly as possible under the applicable rules and regulations and to that end:

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's rules of practice and procedure, a hearing will be held on December 6, 1962, at 9:30 a.m., e.s.t., in a Hearing Room of the Federal Power Commission, 441 G Street NW., Washington, D.C., concerning the matters involved in and the issues presented by such application: *Provided, however*, That the Commission may, after a noncontested hearing, dispose of the proceedings pursuant to the provisions of § 1.30(c) (1) or (2) of the Commission's rules of practice and procedure. Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D.C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before November 26, 1962. Failure of any party to appear and participate in the hearing shall be construed as waiver of and concurrence in omission herein of the intermediate decision procedure in cases where a request therefor is made.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 62-11002; Filed, Nov. 2, 1962;
8:45 a.m.]

[Docket No. RI62-564 etc.]

HUMBLE OIL & REFINING CO. ET AL.

Notice of Applications and Date of Hearing

OCTOBER 29, 1962.

Humble Oil & Refining Company, Docket No. CI62-564; American Natural Gas Company, Docket No. CI62-1171; Messman-Rinehart Oil Company,¹ Docket No. CI62-1293; Sunray DX Oil Company,² Docket No. CI62-1436; Phillips Petroleum Company (Operator), et al., Docket No. CI62-1460; G. E. Kadane &

Sons, Docket No. CI62-1538; J. C. Shortes and R. H. Shortes, d.b.a. C. & L. Drilling Company (Operator), et al., Docket No. CI63-278.

Take notice that each of the above Applicants has filed an application pursuant to section 7(b) of the Natural Gas Act for permission and approval of the Commission to abandon natural gas service as hereinafter described and as more fully set forth in the respective applications which are on file with the Commission and open to public inspection.

In each case, except in Docket No. CI62-564, the Applicant states that the volume of gas available for delivery or the pressure has declined to the point where it is no longer economically feasible to continue service under the basic contract. In Docket No. CI62-564 Applicant is selling the subject gas to Trunkline Gas Company under authorization granted in Docket No. CI60-259. A notice of cancellation of the related FPC gas rate schedule has been filed in each case.

The pertinent facts in each application are as follows:

Docket No.; Location; Purchaser; Docket No. in which sale was authorized

CI62-564; Bayou Sale Field, St. Mary Parish, La.; Tennessee Gas Transmission Co.; G-3107.
CI62-1171; Pine Island Field, Caddo Parish, La.; Arkansas Louisiana Gas Co.; G-11972.
CI62-1293; Southwest Sweeney Pool, Pawnee County, Kans.; Kansas-Nebraska Natural Gas Co., Inc.; G-8122.
CI62-1436; Trousdale Field, Edwards County, Kans.; Cities Service Gas Co.; G-12857.
CI62-1460; North Lovedale (Oswego) Field, Harper County, Okla.; Cities Service Gas Co.; G-17510.
CI62-1538; C. B. Crowley Lease, Jack County, Tex. (R.R. Dist. No. 9); Natural Gas Pipeline Co. of America; G-19137.
CI63-278; Russell-Wilson Lease, Logan County, Okla.; Cities Service Gas Co.; CI60-680.

These matters should be heard on a consolidated record and disposed of as promptly as possible under the applicable rules and regulations and to that end:

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's rules of practice and procedure, a hearing will be held on December 6, 1962, at 9:30 a.m., e.s.t., in a Hearing Room of the Federal Power Commission, 441 G Street NW., Washington, D.C., concerning the matters involved in and the issues presented by such applications: *Provided, however*, That the Commission may, after a noncontested hearing, dispose of the proceedings pursuant to the provisions of § 1.30(c) (1) or (2) of the Commission's rules of practice and procedure. Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D.C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before

November 26, 1962. Failure of any party to appear at and participate in the hearing shall be construed as waiver of and concurrence in omission herein of the intermediate decision procedure in cases where a request therefor is made.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 62-11003; Filed, Nov. 2, 1962;
8:45 a.m.]

[Docket Nos. CP62-209, CP62-223]

KANSAS-NEBRASKA NATURAL GAS CO., INC., AND NORTHERN NATURAL GAS CO.

Notice of Applications and Date of Hearing

OCTOBER 29, 1962.

Take notice that on March 6, 1962, Kansas-Nebraska Natural Gas Company (Kansas-Nebraska), Hastings, Nebraska, filed in Docket No. CP62-209 an application pursuant to section 7 of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain facilities in Kansas and Nebraska and for permission and approval to abandon a 300 horsepower compressor unit at Holdrege, Nebraska, all as more fully set forth in the application on file with the Commission and open to public inspection.

Kansas-Nebraska proposes to construct and operate approximately 53.3 miles of 12-inch pipeline, 83.5 miles of 10-inch pipeline, 18.5 miles of 8-inch pipeline, 1.5 miles of 6-inch pipeline and 6 miles of 4-inch pipeline, as well as a 1,000 horsepower compressor addition at Holdrege. Kansas-Nebraska states that, with the proposed increase in horsepower at Holdrege, the 300 horsepower unit to be abandoned at Holdrege will no longer be a practical size for that station.

The application shows that the subject facilities will increase Kansas-Nebraska's system capacity 20,000 Mcf per day and will enable Kansas-Nebraska to meet the increased firm requirements of its existing customers. Kansas-Nebraska proposes to provide 10,000 Mcf of gas per day from its own system supply and to purchase the remaining 10,000 Mcf per day from Northern Natural Gas Company (Northern). Certain of the subject facilities will enable Kansas-Nebraska to receive the Northern gas.

The application shows the estimated cost of the subject facilities to be \$3,270,200, which cost will be financed out of current working capital.

Take further notice that on March 27, 1962, Northern, 2223 Dodge Street, Omaha, Nebraska, filed in Docket No. CP62-223 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of certain facilities in Nebraska and the sale and delivery of 10,000 Mcf of natural gas per day, on a firm basis, to Kansas-Nebraska, all as more fully set forth in the application which is also on file with the Commission and open to public inspection.

¹ Successor in interest to Graham-Messman-Rinehart Oil Company.

² Formerly Sunray Mid-Continent Oil Company.

Northern proposes to construct and operate 40.5 miles of 10-inch pipeline extending in a northwesterly direction from its Beatrice Station to a point of interconnection with certain of Kansas-Nebraska's proposed facilities in Docket No. CP62-209, in Fillmore County, Nebraska; a 2,000 horsepower compressor addition at the Beatrice Station, and necessary measuring facilities at the Fillmore County delivery point.

The application shows the estimated cost of the subject facilities to be \$1,889,200, which cost will be financed from funds on hand.

These related matters should be heard on a consolidated record and disposed of as promptly as possible under the applicable rules and regulations and to that end:

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by sections 7 and 15 of the Natural Gas Act, and the Commission's rules of practice and procedure, a hearing will be held on December 6, 1962, at 9:30 a.m., e.s.t., in a Hearing Room of the Federal Power Commission, 441 G Street NW., Washington, D.C., concerning the matters involved in and the issues presented by such applications: *Provided, however*, That the Commission may, after a non-contested hearing, dispose of the proceedings pursuant to the provisions of § 1.30(c) (1) or (2) of the Commission's rules of practice and procedure. Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

Protests or petitions to intervene may be filed with the Federal Power Commission, Washington 25, D.C., in accordance with the rules of practice and procedure (18 CFR 1.8 or 1.10) on or before November 26, 1962. Failure of any party to appear at and participate in the hearing shall be construed as waiver of and concurrence in omission herein of the intermediate decision procedure in cases where a request therefor is made.

JOSEPH H. GUTRIDE,
Secretary.

[F.R. Doc. 62-11004; Filed, Nov. 2, 1962; 8:45 a.m.]

HOUSING AND HOME FINANCE AGENCY

Public Housing Administration
DEPUTY COMMISSIONER ET AL.
Delegation of Final Authority

Effective October 27, 1962, section II is amended to read as follows:

II. *Delegations of final authority.* A. Powers delegated in this section may not be redelegated. However, they may be exercised by an officer or employee designated to serve in an "Acting" capacity during the absence from duty of the official to whom the powers are delegated. Any officer or employee to whom powers are delegated in this section is

authorized to designate any officer or employee under his supervision to serve in an "Acting" capacity, for periods not exceeding 30 days, during his absence or during the absence of any officer or employee under his supervision; except that a Regional Director is authorized to make such a designation only for periods of absence during which both designees set forth in Section I are also absent.

B. The Deputy Commissioner is authorized to exercise all the powers, duties, and functions vested in the Commissioner, but may not redelegate such powers, duties, or functions. He shall serve as Acting Commissioner in the absence of the Commissioner. In the absence of both the Commissioner and the Deputy Commissioner, one of the following officials (but not anyone acting in his stead) shall serve as Acting Commissioner: *Provided*, That he shall so serve only in the absence of all the officials named above him in this list:

General Counsel.

Assistant Commissioner for Management.
Assistant Commissioner for Administration.

The Acting Commissioner is authorized to exercise all the powers, duties, and functions, while so acting, which are vested in the Commissioner, but may not redelegate such powers, duties, or functions.

C. The following delegations of authority to officials as indicated apply to locally owned low-rent housing under the United States Housing Act of 1937, as amended (42 U.S.C. 1401), and Public Law 671, 76th Congress (42 U.S.C. 1501):

1. To exercise all powers and authorities vested in the Commissioner in all matters in connection with such housing.

Regional Directors.

2. To exercise all powers and authorities vested in the Commissioner in all matters relating to the development of such housing.

Assistant Commissioner for Development.
Assistant Directors for Development.

3. To exercise all powers and authorities vested in the Commissioner in all matters relating to the maintenance and operation of such housing, except the approval of income limits.

Assistant Directors for Management.

4. To exercise all powers and authorities vested in the Commissioner in all matters relating to financing and re-financing in connection with such housing; to approve Cooperation Agreements and contracts for legal services with respect to such housing, including amendments or modifications thereof.

Regional Attorneys.

5. To make determinations of prevailing salaries, wages, or fees under the provisions of section 16(2) of the United States Housing Act of 1937, as amended.

Director of the Labor Relations Branch.

6. To approve change orders for Construction and Equipment Contracts.

Chiefs of the Construction Sections.
Project Engineers.

7. To execute contracts and amendments thereto for the purchase by local housing authorities of materials, equipment, and supplies.

In the Central Office:

Supervisory General Supply Officer, Management Division.
General Supply Officer, Management Division.

In the Atlanta Regional Office:

Chief of the Property and Services Section.

In all other Regional Offices:

Chiefs of the Project Fiscal Management Sections.
General Supply Officers.

D. The following delegations of authority to officials as indicated apply to all Federally owned public housing:

1. To exercise all powers and authorities vested in the Commissioner in all matters in connection with such housing.

Regional Directors.

2. To act as the representative of the head of the agency in determining contract appeals.

Assistant Commissioner for Development.
Director of the Planning and Production Branch.

3. To execute and cancel dwelling leases and amendments thereto; to accept settlements and to execute releases from civil liability where Government property has been damaged, destroyed, or stolen and full reimbursement therefor has been made by the wrongdoers; to approve in writing the compromise of rent claims against tenants or former tenants and to approve payment of court costs in connection with any claim against tenants or former tenants.

Housing Project Managers.
Assistant Housing Project Managers.
Housing Project Assistants.

4. To execute contracts and amendments thereto for materials, equipment, supplies, and services other than personal services; to order the publication of advertisements; to issue Government Bills of Lading (Standard Form 1103); to execute or approve contracts for the sale or transportation of personal property; and to execute Certificates of Release (Standard Form 97) in connection with the disposition of motor vehicles.

In the Central Office:

Supervisory General Supply Officer, Management Division.
General Supply Officer, Management Division.

In the Atlanta Regional Office:

Assistant Director for Management.
Chief of the Property and Services Section.

In all other Regional Offices:

Assistant Directors for Management.
Chiefs of the Project Fiscal Management Sections.
General Supply Officers.
Housing Project Managers.
Assistant Housing Project Managers.
Housing Project Assistants.

5. To execute stipulations and amendments to land leases with respect to increases in land rentals.

Assistant Commissioner for Development.
Director of the Planning and Production Branch.

6. To execute dedications, licenses, permits, and easements; to execute contracts with brokers, local housing authorities, or others for management or disposition; to execute contracts for the services of surveyors and appraisers; to consent to the annexation of project property by a political subdivision.

Regional Attorney, Chicago Regional Office.
Assistant Director for Management, New York Regional Office.

7. To execute contracts of sale, removal, or demolition; to execute deeds and transfer documents (other than documents relating to transfers of jurisdiction without reimbursement to other Federal agencies); to execute lease cancellations and settlements; to order and execute contracts for advertisements in connection with the disposition of real property.

Assistant Commissioner for Management.
Regional Attorney, Chicago Regional Office.
Assistant Director for Management, New York Regional Office.

E. The following delegations of authority are made to the officials indicated:

1. To consider, ascertain, adjust, determine, and settle claims against the United States not in excess of \$2,500 arising out of the acts or omissions of employees, pursuant to the Federal Tort Claims Act (28 U.S.C. 2671-2680).

Assistant Commissioner for Administration (for Central Office Employees).
Comptroller (for Central Office Employees).
Regional Directors (for Regional Office and Project Employees under their jurisdiction).

2. To accept service of process pursuant to attachment or garnishment proceedings served upon the Public Housing Administration with regard to any debtor-employee of the PHA, to execute all necessary and proper documents required in connection therewith, and to appear to testify therein for the PHA when so ordered by a court of competent jurisdiction and upon proper legal notice.
Comptroller.
Administrative Officer, Fiscal Branch.

3. To execute or approve contracts and amendments thereto for materials, equipment, supplies, space, services other than personal services, and the sale or transportation of personal property; to execute Certificates of Release (Standard Form 97) in connection with the disposition of motor vehicles; to order the publication of advertisements; to issue Government Bills of Lading (Standard Form 1103).

Assistant Commissioner for Administration.
Director of the Office Services Branch.
Chief, Procurement Section.
Regional Directors.
Chiefs of the Office Services Sections (except Atlanta Regional Office).
Chief of the Property and Services Section, Atlanta Regional Office.

4. To approve insurance contracts and execute endorsements on behalf of the PHA on insurance company checks on which the PHA is a joint payee.

Assistant Commissioner for Management.
Deputy Assistant Commissioner for Management.

Director of the Fiscal Management Branch.
Insurance Specialist.

Assistant Directors for Management.
Chiefs of the Project Fiscal Management Sections.

Insurance-Taxation Officers.
Insurance Officer, Philadelphia Regional Office.

5. To attest all documents requiring attestation and certify that copies of documents, leases, contracts, and other papers are identical with the originals.
In the Central Office:

Director of the Office Services Branch.
Financing Officers, Legal Division.
Secretary to the Director of the Office Services Branch.

In the Regional Offices:

Secretaries to the Regional Attorneys (except Fort Worth Regional Office).
Financing Assistant, Fort Worth Regional Office.
Production Control Assistants.
Document Control Clerks.
Regional Attorney, Philadelphia Regional Office.

6. With respect to notes, lien instruments, conditional sales contracts, lease-purchase contracts, and restrictive provisions of deeds of conveyance (such as provisions with respect to mineral rights, easements, and reversionary rights); to execute releases and quitclaim deeds of the Government's interests; to take appropriate action for the enforcement of compliance with the terms and conditions of such instruments; to execute contracts or make arrangements for appraisals, surveys, and engineering and other technical services; to execute amendments to such instruments; to approve or disapprove budgets and take other actions which under such instruments are required to be taken by the Commissioner or by the PHA; to sell and assign such instruments; to execute contracts with agents for the servicing of such instruments; to order the publication of advertisements; to approve insurance contracts; and to execute endorsements on behalf of the PHA on mortgage payment checks, and on insurance company checks on which the PHA is a joint payee.

Assistant Commissioner for Management.
Deputy Assistant Commissioner for Management.
Kenneth M. Stone.

7. To draw checks on depository banks against the accounts of local housing authorities and to execute any certificates required in connection therewith.
Assistant Commissioner for Administration.
Comptroller.

8. To make advance payments, whenever in his judgment that is necessary, with respect to contracts with any Federal, State, or local public agency or instrumentality as authorized by section 502(c)(2) of Public Law 901, 80th Congress.

Assistant Commissioner for Administration.

9. To issue purchase orders for the rental of motor vehicles.

Travel Clerk, San Francisco Regional Office.

10. In connection with operation and management of Project CONN-6-1, Waterbury, Connecticut, known as Berkeley Heights (said Project being in possession of the PHA), to exercise all powers, duties, and functions which are vested in the Commissioner.

Assistant Director for Management, New York Regional Office.
Chief of Management Review Section, Area C, New York Regional Office, but only during absence of the Assistant Director for Management.

This delegation is effective as of May 1, 1960, and is to continue during the period of PHA's possession of the Berkeley Heights Project. All previous actions taken by the New York Regional Director on or since May 1, 1960, in connection with the said Project and the administration thereof are hereby approved, ratified, and affirmed.

Approved: October 27, 1962.

MARIE C. MCGUIRE,
Commissioner.

[F.R. Doc. 62-11008; Filed, Nov. 2, 1962; 8:46 a.m.]

OFFICE OF EMERGENCY PLANNING CALIFORNIA

Notice of Major Disaster

Pursuant to the authority vested in me by the President under Executive Order 10427 of January 16, 1953, Executive Order 10737 of October 29, 1957, and Executive Order 11051 of September 27, 1962 (18 F.R. 407, 22 F.R. 8799, 27 F.R. 9683); Reorganization Plan No. 1 of 1958, Public Law 85-763, and Public Law 87-296; by virtue of the Act of September 30, 1950, entitled "An Act to authorize Federal assistance to States and local governments in major disasters, and for other purposes" (42 U.S.C. 1855-1855g), as amended; notice is hereby given of a declaration of "major disaster" by the President in his letter to me dated October 24, 1962, reading in part as follows: "I hereby determine the damage in the various areas of the State of California, adversely affected by severe storms and flooding beginning on or about October 10, 1962, to be of sufficient severity and magnitude to warrant disaster assistance by the Federal government to supplement State and local efforts."

I do hereby determine the following areas of the State of California to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of October 24, 1962:

The counties of:

Alameda.	Placer.
Butte.	San Mateo.
Contra Costa.	Sierra.
Modoc.	Sutter.
Napa.	Yuba.

Dated: October 30, 1962.

EDWARD A. McDERMOTT,
Director,
Office of Emergency Planning.

[F.R. Doc. 62-10997; Filed, Nov. 2, 1962; 8:45 a.m.]

SECURITIES AND EXCHANGE COMMISSION

[File No. 1-3842]

BLACK BEAR INDUSTRIES, INC.

Order Summarily Suspending Trading

OCTOBER 30, 1962.

The common stock, par value 15 cents a share, of Black Bear Industries, Inc. (formerly Black Bear Consolidated Mining Co.), being listed and registered on the San Francisco Mining Exchange, a national securities exchange; and

The Commission being of the opinion that the public interest requires the summary suspension of trading in such security on such Exchange and that such action is necessary and appropriate for the protection of investors; and

The Commission being of the opinion further that such suspension is necessary in order to prevent fraudulent, deceptive or manipulative acts or practices, with the result that it will be unlawful under section 15(c)(2) of the Securities Exchange Act of 1934 and the Commission's Rule 15c2-2 thereunder for any broker or dealer to make use of the mails or of any means or instrumentality of interstate commerce to effect any transaction in, or to induce or attempt to induce the purchase or sale of such security, otherwise than on a national securities exchange;

It is ordered, Pursuant to section 19(a)(4) of the Securities Exchange Act of 1934 that trading in said security on the San Francisco Mining Exchange be summarily suspended in order to prevent fraudulent, deceptive or manipulative acts or practices, this order to be effective for a period of ten (10) days, October 31, 1962, through November 9, 1962, both dates inclusive.

By the Commission.

ORVAL L. DuBOIS,
Secretary.

[F.R. Doc. 62-11010; Filed, Nov. 2, 1962; 8:46 a.m.]

[File No. 1-3445]

E. L. BRUCE CO., INC.

Order Summarily Suspending Trading

OCTOBER 30, 1962.

The common stock, par value \$1, of E. L. Bruce Co. (Incorporated), being listed and registered on the American Stock Exchange, a national securities exchange; and

The Commission being of the opinion that the public interest requires the summary suspension of trading in such security on such Exchange and that such action is necessary and appropriate for the protection of investors; and

The Commission being of the opinion further that such suspension is necessary in order to prevent fraudulent, deceptive or manipulative acts or practices,

with the result that it will be unlawful under section 15(c)(2) of the Securities Exchange Act of 1934 and the Commission's Rule 15c2-2 thereunder for any broker or dealer to make use of the mails or of any means or instrumentality of interstate commerce to effect any transaction in, or to induce or attempt to induce the purchase or sale of such security, otherwise than on a national securities exchange;

It is ordered, Pursuant to section 19(a)(4) of the Securities Exchange Act of 1934 that trading in said security on the American Stock Exchange be summarily suspended in order to prevent fraudulent, deceptive or manipulative acts or practices, this order to be effective for a period of ten (10) days, October 31, 1962, through November 9, 1962, both dates inclusive.

By the Commission.

ORVAL L. DuBOIS,
Secretary.

[F.R. Doc. 62-11011; Filed, Nov. 2, 1962; 8:46 a.m.]

[File No. 1-4583]

PRECISION MICROWAVE CORP.

Order Summarily Suspending Trading

OCTOBER 30, 1962.

The Common Stock, Par Value \$1.00, of Precision Microwave Corp., being listed and registered on the American Stock Exchange, a national securities exchange; and

The Commission being of the opinion that the public interest requires the summary suspension of trading in such security on such Exchange and that such action is necessary and appropriate for the protection of investors; and

The Commission being of the opinion further that such suspension is necessary in order to prevent fraudulent, deceptive or manipulative acts or practices, with the result that it will be unlawful under section 15(c)(2) of the Securities Exchange Act of 1934 and the Commission's Rule 15c2-2 thereunder for any broker or dealer to make use of the mails or of any means or instrumentality of interstate commerce to effect any transaction in, or to induce or attempt to induce the purchase or sale of such security, otherwise than on a national securities exchange;

It is ordered, Pursuant to section 19(a)(4) of the Securities Exchange Act of 1934 that trading in said security on the American Stock Exchange be summarily suspended in order to prevent fraudulent, deceptive or manipulative acts or practices, this order to be effective for a period of ten (10) days, October 31, 1962, through November 9, 1962, both dates inclusive.

By the Commission.

ORVAL L. DuBOIS,
Secretary.

[F.R. Doc. 62-11012; Filed, Nov. 2, 1962; 8:46 a.m.]

[File No. 1-3412]

PROSPER OIL AND MINING CO.

Order Summarily Suspending Trading

OCTOBER 30, 1962.

The common stock of the par value of ten cents, of Prosper Oil and Mining Company, being listed and registered on the Salt Lake Stock Exchange, a national securities exchange; and

The Commission being of the opinion that the public interest requires the summary suspension of trading in such stock on such exchange and that such action is necessary and appropriate for the protection of investors; and

The Commission being of the opinion further that such suspension is necessary in order to prevent fraudulent, deceptive or manipulative acts or practices, with the result that it will be unlawful under section 15(c)(2) of the Securities Exchange Act of 1934 and the Commission's Rule 15c2-2 thereunder for any broker or dealer to make use of the mails or of any means or instrumentality of interstate commerce to effect any transaction in, or to induce or attempt to induce the purchase or sale of such security, otherwise than on a national securities exchange;

It is ordered, Pursuant to section 19(a)(4) of the Securities Exchange Act of 1934, that trading in said security on the Salt Lake Stock Exchange be summarily suspended in order to prevent fraudulent, deceptive or manipulative acts or practices, this order to be effective for the period of ten (10) days, October 31, 1962, through November 9, 1962, both dates inclusive.

By the Commission.

ORVAL L. DuBOIS,
Secretary.

[F.R. Doc. 62-11013; Filed, Nov. 2, 1962; 8:46 a.m.]

INTERSTATE COMMERCE COMMISSION

[Drouth Order No. 60; Amdt. 9]

ALABAMA, ARIZONA, MINNESOTA, AND MISSISSIPPI

Authorizing Railroads to Transport Livestock Feed and Hay at Reduced Rates

In the matter of relief under section 22 of the Interstate Commerce Act.

It appearing that due to the drouth conditions existing in the States of Pennsylvania, New Jersey, and New York, the Commission issued its Drouth Order No. 60 under section 22 of the Interstate Commerce Act authorizing the railroads subject to the Commission's jurisdiction to transport livestock feed and hay to the drouth area at reduced rates;

And it further appearing that the United States Department of Agriculture has requested the Commission to enter

NOTICES

an order authorizing the same authority to 41 additional counties located in the States of Alabama, Arizona, Minnesota, and Mississippi.

It is ordered, That Drouth Order No. 60 as amended, be, and it is hereby, further amended by adding thereto the following counties:

ALABAMA

2 counties, viz.:

Chilton. Marengo.

ARIZONA

4 counties, viz.:

Apache. Mohave.
Gila. Navajo.

MINNESOTA

11 counties, or portions thereof, viz.:

Beltrami. Pennington.
Clearwater. Red Lake.
Koochiching. Roseau.
Lake of the Woods.
Kittson, excluding the townships of St. Vincent, Hill, Teien, Jupiter, and Springbrook.
Marshall, excluding the townships of Eagle Point, Big Woods, Oak Park, Parker, Bloomer, Vega, Sinnett, Tamarac, Middle River, Warrenton, Augsburg, Wanger, Alma, McCrea, Feldahl, and Comstock.
Polk, excluding the townships of Higdem, Sandville, Esther, Northland, Grand Forks, Sullivan, Rhinehart, Huntsville, Bygland, Fisher, Tynsid, Roome, and Andover.

MISSISSIPPI

24 counties, viz.:

Claiborne. Madison.
Clarke. Marion.
Copiah. Montgomery.
Forrest. Neshoba.
Holmes. Newton.
Jasper. Perry.
Jefferson. Rankin.
Jones. Scott.
Lamar. Simpson.
Lawrence. Smith.
Leake. Wayne.
Lincoln. Winston.

It is further ordered, That in all other respects Drouth Order No. 60, as amended, shall remain in full force and effect.

And it is further ordered, That notice to the affected railroads and the general public shall be given by depositing a copy of this order in the Office of the Secretary of the Commission and by filing a copy with the Director, Office of the Federal Register; and that copies be mailed to the Chairman of the Traffic Executive Association-Eastern Railroads, New York, New York, the Chairman of the Southern Freight Association, Atlanta, Georgia, the Chairman of the Executive Committee, Western Traffic Association, Chicago, Illinois, the Traffic Vice-President of the Association of American Railroads, Washington, D.C., and to the President of the American Short Line Railroad Association, Washington, D.C.

Dated at Washington, D.C., this 30th day of October A.D. 1962.

By the Commission, Vice-Chairman Walrath.

[SEAL]

HAROLD D. MCCOY,
Secretary.

[F.R. Doc. 62-11024; Filed, Nov. 2, 1962;
8:48 a.m.]

[Notice 712]

MOTOR CARRIER TRANSFER
PROCEEDINGS

OCTOBER 31, 1962.

Synopses of orders entered pursuant to section 212(b) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 179), appear below:

As provided in the Commission's special rules of practice any interested person may file a petition seeking reconsideration of the following numbered proceedings within 20 days from the date of publication of this notice. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC 65342. By order of October 29, 1962, The Transfer Board approved the transfer to Jensen Transport, Inc., Independence, Iowa, of Certificates Nos. MC 35835, MC 35835 Sub-1, MC 35835 Sub-2, MC 35835 Sub-3, MC 35835 Sub-5, MC 35835 Sub-6, MC 35835 Sub-7, MC 35835 Sub-10, MC 35835 Sub-12, MC 35835 Sub-13, MC 35835 Sub-14, MC 35835 Sub-15, and MC 35835 Sub-16, issued by the Commission, June 18, 1941, April 5, 1950, August 4, 1950, March 29, 1950, June 26, 1950, June 4, 1952, July 3, 1952, January 21, 1955, March 11, 1959, October 14, 1959, September 28, 1960, February 15, 1961, and September 18, 1961, respectively, to Elmer Jensen, Independence, Iowa, authorizing the transportation as follows: Irregular Routes: Livestock, from Independence, Iowa, and points and places within 25 miles thereof, to Chicago, Ill., from Sumner and Hawkeye, Iowa, and points and places within 15 miles of Sumner and 15 miles of Hawkeye, to points and places in Illinois; agricultural implements and parts, from Moline and East Moline, Ill., to Sumner, Iowa; petroleum products in containers, from Rock Island, Ill., to Independence, Iowa; egg cases, egg case fillers, and egg case material, from Chicago, Ill., to Jesup, Iowa; casein in containers, from Clinton, Independence, Davenport, Olin, Wilton Junction, Aurora, Waterloo, Cedar Rapids, Sumner, Clarksville, Oelwein, Fairbanks, Tripoli, Plainfield, Hazleton, Lamont, Westgate, Randalia, Shell Rock, and Iowa City, Iowa to Chicago and Erie, Ill., and empty containers for casein, from Chicago and Erie, Ill., to points in Iowa named immediately above. Return with no transportation for compensation except as otherwise authorized herein to the above-specified origin points; automobile parts and accessories, between Independence, Iowa, and Chicago and Rockford, Ill.; batteries and electric generators, between Independence, Iowa, and Chicago, Ill.; emigrant movables, between Independence, Iowa, and points and places within 25 miles of Independence, on the one hand, and, on the other, points and places in Illinois, Indiana, Kansas, Michigan, Minnesota, Missouri, Nebraska, Ohio and Wisconsin;

casein, from Independence, Iowa, to Union (in McHenry County), Ill.; empty containers for casein and equipment used in the manufacture of casein, from Union, Ill., to Independence, Iowa; malt beverages and advertising matter used in connection with the sale of malt beverages, over irregular routes, from Duluth, Minn., Omaha, Nebr., Sheboygan and Manitowoc, Wis., to Cedar Rapids, Iowa; empty malt beverage containers, over irregular routes, from Cedar Rapids, Iowa, to the above-specified origin points; malt beverages, from Milwaukee, and La Crosse, Wis., Chicago, Ill., and South Bend, Ind., to Cedar Rapids, Iowa; advertising matter used in connection with the sale of malt beverages, from South Bend, Ind., to Cedar Rapids, Iowa; empty malt-beverage containers, from Cedar Rapids, Iowa, to the above-specified origin points; livestock, from Alburnett, Iowa, and points and places within 15 miles of Alburnett, to Chicago, Ill.; hardware, twine, feed, and fertilizer, from Chicago to the above-specified origin points; corn syrup, in bulk, in tank vehicles, over irregular routes, from Cedar Rapids, Iowa, to points in Illinois, Michigan, Minnesota, Missouri, Nebraska, and Wisconsin, with no transportation for compensation on return except as otherwise authorized; corn oil, in bulk, in tank vehicles, over irregular routes, from Cedar Rapids, Iowa, to points in Minnesota; corn syrup, in bulk, in tank vehicles, over irregular routes, from Clinton, Iowa, to points in Minnesota, Missouri, and Nebraska; beer, from Warsaw, Ill., to Cedar Rapids, Mason City and Waterloo, Iowa, and from Joliet, Ill., to Cedar Rapids, Iowa, and empty malt beverage containers, from Cedar Rapids, Mason City, and Waterloo, Iowa, to Warsaw, Ill., and from Cedar Rapids, Iowa, to Joliet, Ill.; liquid sugar, and blends of corn syrup and liquid sugar, in bulk, in tank vehicles, from Cedar Rapids, Iowa, to points in Illinois, Michigan, Minnesota, Missouri, Nebraska, and Wisconsin, with no transportation for compensation on return except as otherwise authorized, from Clinton, Iowa, to points in Minnesota, Missouri, and Nebraska, with no transportation for compensation on return except as otherwise authorized; malt beverages, from Omaha, Nebr., to Waterloo, Iowa; and empty malt-beverage containers, from Waterloo, Iowa, to Omaha, Nebr.; malt beverages and advertising matter used in connection with the sale thereof, from La Crosse, Wis., to Waterloo, Iowa, and empty malt beverage containers, from Waterloo, Iowa, to La Crosse, Wis.; malt beverages, from Minneapolis, Minn., to Cedar Rapids, Iowa, with no transportation for compensation on return except as otherwise authorized; malt beverages, from Minneapolis, Minn., to Cedar Rapids, Iowa, with no transportation for compensation on return except as otherwise authorized; corn syrup and corn syrup mixtures, in bulk, in tank vehicles, from Sioux City, Iowa, to points in Kansas, Minnesota, Nebraska, North Dakota, and South Dakota, with no transportation for compensation on return except as otherwise authorized.

No. MC-FC 65371. By order of October 30, 1962, the Transfer Board approved the transfer to Jack Dane Cagno, doing business as Cagno Horse Transportation, Bedford, Ohio, of Certificate No. MC 51322 Sub-1, issued December 9, 1948, to A. E. Gardner, Garrettsville, Ohio, authorizing the transportation of: Horses other than ordinary, and in the same vehicle, such equipment and supplies, incidental to the care, transportation, racing, and exhibition, of such horses, over irregular routes, between points in Ohio, Illinois, Kentucky, and West Virginia. Richard C. Green, 1410 East Ohio Building, Cleveland 14, Ohio, attorney for applicants.

No. MC-FC 65377. By order of October 26, 1962, the Transfer Board approved the transfer to Marjorie Summers, doing business as Summers Truck Line, Clarion, Iowa, of a portion of Permit No. MC 114016, issued August 28, 1958, to Stanley Vanteicher, Buffalo Center, Iowa, authorizing the transportation of livestock, livestock feeds, packinghouse tankage, bone meal, and meat scraps, over irregular routes, between Austin, Minn., and Fremont, Nebr., on the one hand, and, on the other, points in that part of Iowa bounded by a line beginning at the Iowa-Minnesota State line and extending south along U.S. Highway 65 to Iowa Falls, Iowa, thence west along U.S. Highway 20 to its junction with U.S. Highway 169, thence north along U.S. Highway 169 to its junction with Iowa State Highway 3, thence east along Iowa State Highway 3 to its junction with Iowa State Highway 60, thence north 14 miles along Iowa State Highway 60 to junction with unnumbered county road, thence east along said road through Kanawha, Iowa, to Goodell, Iowa, thence north along U.S. Highway 69, to Iowa-Minnesota State line, thence east along Iowa-Minnesota State line to point of beginning, including all points on the indicated portions of highways specified except the town of Kanawha, Iowa. Clayton L. Wornson, 206 Brick & Tile Building, Mason City, Iowa, attorney for applicants.

No. MC-FC 65378. By order of October 26, 1962, the Transfer Board approved the transfer to Lester V. Polzin, doing business as Polzin Truck Line, Ringsted, Iowa, of a portion of Permit No. MC 114016, issued August 28, 1958, to Stanley Vanteicher, Buffalo Center, Iowa, authorizing the transportation of livestock, livestock feeds, packinghouse tankage, bone meal, and meat scraps, over irregular routes, between Austin, Minn., and Fremont, Nebr., on the one hand, and, on the other, points in that part of Iowa bounded by a line beginning at the Iowa-Minnesota State line and extending south along U.S. Highway 169 to its junction with Iowa State Highway 9, thence west along Iowa State Highway 9 to Armstrong, Iowa, thence south along Iowa State Highway 44 to its junction with U.S. Highway 18, thence west along U.S. Highway 18 to Emmetsburg, Iowa, thence south along Iowa State Highway 17 to Pocahontas, Iowa, thence west along Iowa State Highway 3 to its junction with U.S. Highway 71, thence south

along U.S. Highway 71 to its junction with U.S. Highway 20, thence west along U.S. Highway 20 to the Iowa-Nebraska State line, thence along the Iowa-Nebraska, Iowa-South Dakota, and Iowa-Minnesota State lines to point of beginning, including all points on the indicated portions of the highways specified except Storm Lake, Iowa. Clayton L. Wornson, 206 Brick & Tile Building, Mason City, Iowa, attorney for applicants.

No. MC-FC 65379. By order of October 26, 1962, the Transfer Board approved the transfer to Paul A. James, Algona, Iowa, of a portion of Permit No. MC 114016, issued August 28, 1958, to Stanley Vanteicher, Buffalo Center, Iowa, authorizing the transportation of livestock, livestock feeds, packinghouse tankage, bone meal and meat scraps, over irregular routes, between Austin, Minn., and Fremont, Nebr., on the one hand, and on the other, points in that part of Iowa bounded by a line beginning at the Iowa-Minnesota State line and extending south along U.S. Highway 69 to its junction with unnumbered county road at Goodell, Iowa, thence west along said unnumbered county road through Kanawha, Iowa, to its junction with Iowa State Highway 60, thence south along State Highway 60 to its junction with Iowa State Highway 3, thence west along Iowa State Highway 3 to its junction with U.S. Highway 169, thence south along U.S. Highway 169 to its junction with U.S. Highway 20, thence west along U.S. Highway 20 to its junction with U.S. Highway 71, thence north along U.S. Highway 71 to its junction with Iowa State Highway 3, thence east along Iowa State Highway 3 to Pocahontas, Iowa, thence north along Iowa State Highway 17, to Emmetsburg, Iowa, thence east along U.S. Highway 18 to its junction with Iowa State Highway 44, thence north along Iowa State Highway 44 to Armstrong, Iowa, thence east along Iowa State Highway 9 to its junction with U.S. Highway 169, thence north along U.S. Highway 169 to Iowa-Minnesota State line, thence east along the Iowa-Minnesota State line to point of beginning, excluding all points on the indicated portions of the highways specified except Kanawha, Iowa, and Storm Lake, Iowa. Clayton L. Wornson, 206 Brick & Tile Building, Mason City, Iowa, attorney for applicants.

[SEAL]

HAROLD D. McCoy,
Secretary.

[F.R. Doc. 62-11022; Filed, Nov. 2, 1962;
8:48 a.m.]

[Notice 712-A]

MOTOR CARRIER TRANSFER PROCEEDING

OCTOBER 31, 1962.

Synopses of orders entered pursuant to section 212(b) of the Interstate Commerce Act, and rules and regulations prescribed thereunder (49 CFR Part 179), appear below:

As provided in the Commission's special rules of practice any interested person may file a petition seeking recon-

sideration of the following numbered proceedings within 20 days from the date of publication of this notice. Pursuant to section 17(8) of the Interstate Commerce Act, the filing of such a petition will postpone the effective date of the order in that proceeding pending its disposition. The matters relied upon by petitioners must be specified in their petitions with particularity.

No. MC-FC 65300. By order of October 31, 1962, The Transfer Board approved the transfer to Grever Trucking Co., Inc., Tulsa, Okla., of Certificates Nos. 4868, and MC 4868 Sub-7, issued May 9, 1950, and September 22, 1960, respectively, to May Grever and Clyde Grever, a partnership, doing business as Grever Trucking Co., Tulsa, Okla., authorizing the transportation of: Commodities similar to those in the "Merce Description" and boats, from, to, or between specified points in Kansas, Oklahoma, Texas, Arkansas, Louisiana, Mississippi, Missouri, Colorado, Wyoming, Utah, and Montana. W. T. Brunson, 419 Northwest Sixth Street, Oklahoma City 2, Okla., attorney for applicants.

[SEAL]

HAROLD D. McCoy,
Secretary.

[F.R. Doc. 62-11023; Filed, Nov. 2, 1962;
8:48 a.m.]

FOURTH SECTION APPLICATION FOR RELIEF

OCTOBER 31, 1962.

Protests to the granting of an application must be prepared in accordance with Rule 40 of the general rules of practice (49 CFR 1.40) and filed within 15 days from the date of publication of this notice in the FEDERAL REGISTER.

LONG-AND-SHORT HAUL

FSA No. 38015: Vermiculite to Madison and Waukegan, Ill. Filed by O. W. South, Jr., Agent (No. A4254), for interested rail carriers. Rates on vermiculite, broken, crushed, or ground, dried or not dried, not expanded, in carloads, from Kearney and Travelers Rest, S.C., to Madison and Waukegan, Ill.

Grounds for relief: Market competition and short-line distance formula. Tariff: Supplement 57 to Southern Freight Association tariff I.C.C. S-126.

By the Commission.

[SEAL]

HAROLD D. McCoy,
Secretary.

[F.R. Doc. 62-11021; Filed, Nov. 2, 1962;
8:48 a.m.]

DEPARTMENT OF LABOR

Wage and Hour Division

CERTIFICATES AUTHORIZING EM- PLOYMENT OF LEARNERS AT SPE- CIAL MINIMUM RATES

Notice is hereby given that pursuant to section 14 of the Fair Labor Standards Act of 1938 (52 Stat. 1060, as amended, 29 U.S.C. 201 et seq.), and Administrative Order No. 561 (27 F.R. 4001) the firms listed in this notice have been

issued special certificates authorizing the employment of learners at hourly wage rates lower than the minimum wage rates otherwise applicable under section 6 of the Act. The effective and expiration dates, occupations, wage rates, number or proportion of learners, learning periods, and the principal product manufactured by the employer for certificates issued under general learner regulations (29 CFR 522.1 to 522.9) are as indicated below. Conditions provided in certificates issued under the supplemental industry regulations cited in the captions below are as established in those regulations.

Apparel Industry Learner Regulations (29 CFR 522.1 to 522.9, as amended, and 29 CFR 522.20 to 522.25, as amended).

The following learner certificates were issued authorizing the employment of 10 percent of the total number of factory production workers for normal labor turnover purposes. The effective and expiration dates are indicated.

Bannon Mills, Inc., Seventh and Union Streets, Lebanon, Pa.; effective 10-17-62 to 10-16-63 (infants' and children's outerwear).
Michael Berkowitz Co., Inc., Barton Mill Road, Uniontown, Pa.; effective 10-28-62 to 10-27-63 (men's and women's pajamas).
Blue Bell, Inc., Comer, Ga.; effective 10-18-62 to 10-17-63 (outerwear sport and ski jackets).

Blue Bell, Inc., Commerce, Ga.; effective 10-18-62 to 10-17-63 (blanket lined coats, cassack coats and outerwear jackets).

J. H. Bonck Co., Inc., 1100 South Jefferson Davis Parkway, New Orleans, La.; effective 10-26-62 to 10-25-63 (men's cotton twill shirts, and sportshirts).

Carbondale Childrens Dress Co., 30 Seventh Avenue, Carbondale, Pa.; effective 10-26-62 to 10-25-63 (children's and girls' dresses and playsuits).

Carthage Corp., Carthage, Miss.; effective 11-1-62 to 10-31-63 (men's pants).

Carthage Shirt Corp., Carthage, Tenn.; effective 11-3-62 to 11-2-63 (men's and boys' dress and sport shirts).

Fly Manufacturing Co., 204 South Main Street, Shelbyville, Tenn.; effective 10-27-62 to 10-26-63 (work pants, overalls, dungarees, and jackets).

Frackville Pajama Corp., Lebanon, Pa.; effective 10-31-62 to 10-30-63 (men's and boys' pajamas).

Key Work Clothes, Inc., 523 East Wall Street, Fort Scott, Kans.; effective 10-31-62 to 10-30-63 (bib overalls, overalls, and jackets).

Key Work Clothes of Missouri, Nevada, Mo.; effective 11-1-62 to 10-31-63 (work pants and shirts).

Lamar Manufacturing Co., Millport, Ala.; effective 10-30-62 to 10-29-63 (men's and boys' sport and dress trousers).

Lansford Apparel Co., West Patterson Street, Lansford, Pa.; effective 10-23-62 to 10-22-63 (children's dresses).

Charles Meyers & Co., First and Harrison Streets, Belleville, Ill.; effective 11-1-62 to 10-31-63 (men's semidress trousers).

Meyersdale Manufacturing Co., Inc., Meyersdale, Pa.; effective 11-4-62 to 9-3-63 (men's shirts).

Milan Shirt Manufacturing Co., 134 Williamson Street, Milan, Tenn.; effective 11-4-62 to 11-3-63 (cotton work shirts).

Penn Childrens Dress Co., 831 Lackawanna Avenue, Mayfield, Pa.; effective 10-26-62 to 10-25-63 (children's and girls' dresses and playsuits).

Pye Manufacturing Co., 1025 South Sixth West, Salt Lake City, Utah; effective 10-20-62 to 10-19-63 (women's sportswear—capri pants, pedal pushers, blouses, etc.).

Salant & Salant, Inc., Tennessee Avenue, Parsons, Tenn.; effective 11-8-62 to 11-7-63 (men's cotton work pants and boys' cotton pants).

Seminole Manufacturing Co., Aberdeen, Miss.; effective 10-30-62 to 10-29-63 (men's and boys' sport and dress trousers).

Seminole Manufacturing Co., Columbus, Miss.; effective 10-30-62 to 10-29-63 (men's and boys' sport and dress trousers).

Shane Uniform Co., Inc., 2015 West Maryland Street, Evansville, Ind.; effective 10-31-62 to 10-30-63 (women's washable service apparel).

Sustan Garments, Inc., Winnsboro, La.; effective 11-1-62 to 10-31-63 (men's and boys' cotton trousers).

The following learner certificates were issued for normal labor turnover purposes. The effective and expiration dates and the number of learners authorized are indicated.

Anderson Bros. Consolidated Co's., Inc., Floyd and High Streets, Danville, Va.; effective 10-31-62 to 10-30-63; four learners (men's woven fabric work clothes).

The Dantan Co., Inc., Hankin Street, Dumas, Ark.; effective 10-18-62 to 10-17-63; 10 learners (ladies' sportswear—pedal pushers, bermudas, slim jims, jamaicas and shorts).

Frackville Pajama Corp., Schaefferstown, Pa.; effective 10-31-62 to 10-30-63; five learners (men's and boys' pajamas).

Lacy Manufacturing Co., Inc., 901 Adele Street, Martinsville, Va.; effective 10-16-62 to 10-15-63; five learners in the production of sport jackets (men's and boys' outdoor sport jackets).

Morristown Manufacturing Co., Inc., 1730 West First North Street, Morristown, Tenn.; effective 10-15-62 to 10-14-63; 10 learners (ladies' dress and dusters).

Piekenbrock Co., Dyersville, Iowa; effective 10-18-62 to 10-17-63; seven learners (ladies' cotton pajamas and wash uniforms).

Southern Maid Garment, Inc., Palmer Street, Winneboro, S.C.; effective 10-15-62 to 10-14-63; 10 learners (children's dresses).

W. E. Stephens Manufacturing Co., Inc., Carthage, Tenn.; effective 10-15-62 to 10-13-63; 10 learners (men's and boys' dungarees).

The following learner certificates were issued for plant expansion purposes. The effective and expiration dates and the number of learners authorized are indicated.

Locust Grove Manufacturing Co., Locust Grove, Ga.; effective 10-22-62 to 4-21-63; 40 learners (ladies' slacks).

Prepshirt Manufacturing Corp., North Green Street and Old Creek Road, Greenville, N.C.; effective 10-15-62 to 4-14-63; 207 learners (boys' sport and dress shirts).

Henry I. Siegel Co., Inc., South Fulton, Tenn.; effective 10-16-62 to 4-15-63; 25 learners (men's and boys' single pants).

Glove Industry Learner Regulations (29 CFR 522.1 to 522.9, as amended, and 29 CFR 522.60 to 522.65, as amended).

Lambert Manufacturing Co., 1123 North Osteopathy, Kirksville, Mo.; effective 10-17-62 to 10-16-63; 10 learners (cotton and leather palm work gloves).

Hosiery Industry Learner Regulations (29 CFR 522.1 to 522.9, as amended, and 29 CFR 522.40 to 522.43, as amended).

Charles H. Bacon Co., Inc., Loudon, Tenn.; effective 10-21-62 to 10-20-63; 5 percent of the total number of factory production workers for normal labor turnover purposes (full-fashioned, seamless).

Bear Brand Hosiery Co., Fayetteville, Ark.; effective 10-31-62 to 10-30-63; 5 percent of the total number of factory production

workers for normal labor turnover purposes (seamless).

Bear Brand Hosiery Co., Henderson, Ky.; effective 10-31-62 to 10-30-63; 5 percent of the total number of factory production workers for normal labor turnover purposes (seamless).

Halifax County Hosiery Mills, Scotland Neck, N.C.; effective 10-19-62 to 10-18-63; 5 percent of the total number of factory production workers for normal labor turnover purposes (seamless).

Kayser-Roth Hosiery Co., Inc., Concord Division, Concord, N.C.; effective 10-31-62 to 10-30-63; 5 percent of the total number of factory production workers for normal labor turnover purposes (seamless).

Kayser-Roth Hosiery Co., Inc., Hickory Knitting Division, Hickory, N.C.; effective 10-16-62 to 10-15-63; 5 percent of the total number of factory production workers for normal labor turnover purposes (seamless).

Paul Knitting Mills, Inc., Pulaski, Va.; effective 10-17-62 to 10-16-63; 5 percent of the total number of factory production workers for normal labor turnover purposes (seamless).

Ridgeview Hosiery Mill Co., Newton, N.C.; effective 10-24-62 to 10-23-63; 5 percent of the total number of factory production workers for normal labor turnover purposes (seamless).

Knitted Wear Industry Learner Regulations (29 CFR 522.1 to 522.9, as amended, and 29 CFR 522.30 to 522.35, as amended).

Athens Lingerie Corp., Athens, Ga.; effective 11-2-62 to 11-1-63; 5 percent of the total number of factory production workers for normal labor turnover purposes (undergarments and sleepwear).

Haleyville Textile Mills, Inc., Haleyville, Ala.; effective 10-31-62 to 10-30-63; 5 percent of the total number of factory production workers for normal labor turnover purposes (underwear and sleepwear).

Huntley Knitting Mills, Inc., York, S.C.; effective 10-17-62 to 4-16-63; 35 learners for plant expansion purposes (sweaters).

Lacy Manufacturing Co., Inc., 901 Adele Street, Martinsville, Va.; effective 10-16-62 to 10-15-63; 10 learners for normal labor turnover purposes (men's and boys' swim trunks).

Rockwell Manufacturing Corp., St. Paul, Va.; effective 10-17-62 to 10-16-63; 5 percent of the total number of factory production workers for normal labor turnover purposes (slips and gowns).

Regulations Applicable to the Employment of Learners (29 CFR 522.1 to 522.9, as amended).

The following learner certificates were issued in Puerto Rico to the companies hereinafter named. The effective and expiration dates, learner rates, occupations, learning periods, and the number or proportion of learners authorized to be employed, are as indicated.

Aguada Foundations, Inc., Aguada, P.R.; effective 9-15-62 to 3-14-63; 10 learners for plant expansion purposes, in the occupation of sewing machine operator for a learning period of 480 hours at the rates of 81 cents an hour for the first 320 hours and 90 cents an hour for the remaining 160 hours (girdles).

Plata Gloves, Inc., Cayey, P.R.; effective 9-10-62 to 9-9-63; 20 learners for normal labor turnover purposes, in the occupations of (1) sewing machine operator for a learning period of 480 hours at the rates of: (a) 68 cents an hour for the first 240 hours and 79 cents an hour for the remaining 240 hours in the manufacture of fabric gloves; (b) 66 cents an hour for the first 240 hours and 77 cents

an hour for the remaining 240 hours in the manufacture of leather gloves; (2) die and clicker machine operator for a learning period of 160 hours at the rates of: (a) 68 cents an hour in the manufacture of fabric gloves; (b) 66 cents an hour in the manufacture of leather gloves (ladies' fabric and leather gloves for dress).

Princetta Lingerie, Inc., Luquillo, P.R.; effective 9-20-62 to 2-28-63; 25 learners for plant expansion purposes, in the occupations of (1) sewing machine operator for a learning period of 480 hours at the rates of 65 cents an hour for the first 240 hours and 76 cents an hour for the remaining 240 hours; (2) final inspection of fully assembled garment for a learning period of 160 hours at the rate of 65 cents an hour (ladies' and girls' underwear (panties)).

Surtext Glove Corp., Coamo, P.R.; effective 9-17-62 to 3-16-63; 15 learners for plant expansion purposes, in the occupation of sewing machine operator for a learning period of 480 hours at the rates of 68 cents an hour for the first 240 hours and 79 cents an hour for the remaining 240 hours (ladies' dress gloves).

Each learner certificate has been issued upon the representations of the employer which, among other things, were that employment of learners at special minimum rates is necessary in order to prevent curtailment of opportunities for employment, and that experienced workers for the learner occupations are not available. Any person aggrieved by

the issuance of any of these certificates may seek a review or reconsideration thereof within fifteen days after publication of this notice in the FEDERAL REGISTER pursuant to the provisions of 29 CFR 522.9. The certificates may be annulled or withdrawn, as indicated therein, in the manner provided in 29 CFR Part 528.

Signed at Washington, D.C., this 26th day of October 1962.

ROBERT G. GRONEWALD,
Authorized Representative
of the Administrator.

[F.R. Doc. 62-11007; Filed, Nov. 2, 1962; 8:46 a.m.]

CUMULATIVE CODIFICATION GUIDE—NOVEMBER

The following numerical guide is a list of the parts of each title of the Code of Federal Regulations affected by documents published to date during November.

3 CFR	Page	14 CFR	Page	26 CFR	Page
EXECUTIVE ORDERS:		18.....	10674	1.....	10733
July 9, 1910.....	10654	507.....	10751	PROPOSED RULES:	
April 7, 1911.....	10654	601.....	10675	1.....	10705
5 CFR		609.....	10627, 10634, 10639	198.....	10754
6.....	10647	620.....	10750	301.....	10705
6 CFR		PROPOSED RULES:		29 CFR	
91.....	10741	48.....	10656	511.....	10651
474.....	10647	60.....	10656	672.....	10752
483.....	10741	507.....	10771	PROPOSED RULES:	
7 CFR		16 CFR		1.....	10761
701.....	10743	13.....	10675-10677, 10751	3.....	10764
724.....	10743	17 CFR		5.....	10768
810.....	10744	PROPOSED RULES:		33 CFR	
851.....	10745	1.....	10760	203.....	10753
948.....	10650	240.....	10772	36 CFR	
970.....	10746	19 CFR		7.....	10752
984.....	10673	1.....	10650	39 CFR	
1016.....	10747	20 CFR		45.....	10652
PROPOSED RULES:		404.....	10677	111.....	10652
51.....	10655	21 CFR		151.....	10652
729.....	10760	22.....	10651	42 CFR	
982.....	10705	121.....	10680	51.....	10653
9 CFR		146.....	10680	43 CFR	
74.....	10673	146a.....	10680	PUBLIC LAND ORDERS:	
10 CFR		146b.....	10680	2809.....	10654
1.....	10748	146c.....	10680	2810.....	10654
112.....	10748	146d.....	10680	47 CFR	
PROPOSED RULES:		146e.....	10680	1.....	10703
2.....	10706	PROPOSED RULES:		50 CFR	
50.....	10706	121.....	10705	32.....	10703
115.....	10706	22 CFR			
12 CFR		201.....	10702		
1.....	10674	24 CFR			
13 CFR		203.....	10679		
PROPOSED RULES:					
121.....	10657, 10658				

